

# ARKANSAS CODE OF 1987 ANNOTATED



## 2019 SUPPLEMENT VOLUME 1A

**Place in pocket of bound volume**

*Prepared by the Editorial Staff of the Publisher*

Under the Direction and Supervision of the  
**ARKANSAS CODE REVISION COMMISSION**

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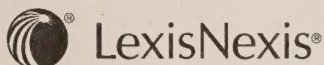
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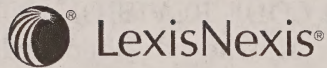
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## Preface

This supplement to the Arkansas Code of 1987 Annotated updates the general and permanent laws of Arkansas through the 2019 Regular Session. It was prepared by the editorial staff of the publisher under the direction and supervision of the Arkansas Code Revision Commission.

Pursuant to Opinion No. 2019-034 of the Office of the Attorney General, acts of the 2019 Regular Session with no emergency clause or specified effective date become effective on July 24, 2019, with the exception of Act 1092, which becomes effective July 30, 2019.

Act 267 of 1987 enacted the Arkansas Code of 1987 Annotated into law. The Code manuscript that was adopted by Act 267 contained only those statutes that were passed by the General Assembly prior to 1987. The bound volumes of the Code follow that manuscript and therefore volumes not replaced since 1987 do not reflect 1987 legislation, other than Act 267. Other 1987 acts, as well as acts from subsequent sessions, are treated in replacement volumes or this Supplement. Section 3 of Act 267 provided that 1987 legislation had the effect of acts that amend, repeal, or add to provisions of the Code, and was to be codified accordingly. Acts 1989, No. 990 formally codified the legislation from the 1987 Regular Session, the 1987 First and Second Extraordinary Sessions, and the 1988 Third and Fourth Extraordinary Sessions. All codified acts appearing in the acts disposition table (see Tables volume) for those sessions were officially codified by this act. For the text of §§ 1-12 of the act, see Publisher's Notes to Title 1, Chapter 2, Subchapter 1.

Code sections are fully set out in the Supplement, even where only part of the section has been amended. You may treat a section in the Supplement, therefore, as a complete substitute for the bound volume version.

A list of sources used in preparing this Supplement, as well as a complete list of Code titles, follow this Preface.

Suggestions, comments, or questions about the Code are welcome. You may call our toll-free number, 1-800-833-9844, fax us at 1-800-643-1280, or write: Arkansas Code Editor, LexisNexis, 701 East Water Street, Charlottesville, Virginia, 22902.

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## Sources

This supplement contains legislation enacted by the Arkansas General Assembly through the 2019 Regular Session. Annotations are based on decisions of state and federal courts construing Arkansas law which will be printed in the following sources:

- Arkansas Supreme Court and Arkansas Court of Appeals Opinions
- Federal Supplement
- Federal Reporter, 3d Series
- United States Supreme Court Reports
- Bankruptcy Reporter
- Arkansas Law Notes
- Arkansas Law Review
- University of Arkansas at Little Rock Law Review
- American Law Reports (ALR)

## **Titles of the Arkansas Code**

1. General Provisions
2. Agriculture
3. Alcoholic Beverages
4. Business and Commercial Law
5. Criminal Offenses
6. Education
7. Elections
8. Environmental Law
9. Family Law
10. General Assembly
11. Labor and Industrial Relations
12. Law Enforcement, Emergency Management, and Military Affairs
13. Libraries, Archives, and Cultural Resources
14. Local Government
15. Natural Resources and Economic Development
16. Practice, Procedure, and Courts
17. Professions, Occupations, and Businesses
18. Property
19. Public Finance
20. Public Health and Welfare
21. Public Officers and Employees
22. Public Property
23. Public Utilities and Regulated Industries
24. Retirement and Pensions
25. State Government
26. Taxation
27. Transportation
28. Wills, Estates, and Fiduciary Relationships



## **User's Guide**

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1A of the Code.

The following User's Guide topics are revised:

### **Multiple Legislation**

Where more than one act in a session affects a section, the resolution and interpretation of the multiple legislation are governed by §§ 1-2-207 and 1-2-303.

### **Placement of Notes**

Where a note pertains to a single Code section, it is usually set out following that section. In many instances, however, a note applies equally to several Code sections or to an entire subchapter, chapter, or title. If the pertinent sections are scattered, or few in number, the note will be duplicated for each section. But where the note applies to all or most of the sections in a subchapter, chapter, or title, we prevent the space-consuming repetition of notes by placing the note at the very beginning of the subchapter, chapter, or title.

For ease of reference and to save space, all "Effective Dates" and "Preambles" notes for statutes are carried at the beginning of the chapters or subchapters in which the statute is codified.

Look for these "unit-wide" notes between the subchapter, chapter, or title analysis and the first section in that unit.

### **Preambles and Legislative Intent**

Depending on the instructions given by the Arkansas Code Revision Commission staff, legislative intent sections from some acts are either codified or carried as notes under sections affected by the act. Preambles are carried as notes at the beginning of chapters or subchapters in which the act is codified.





# **TITLE 1**

## **GENERAL PROVISIONS**

### **CHAPTER.**

2. THE CODE AND REGULATIONS.
4. STATE SYMBOLS, MOTTO, ETC.
5. HOLIDAYS AND OBSERVANCES.

## **CHAPTER 2**

### **THE CODE AND REGULATIONS**

### **SUBCHAPTER.**

1. GENERAL PROVISIONS.
3. ARKANSAS CODE REVISION COMMISSION.

### **SUBCHAPTER 1 — GENERAL PROVISIONS**

### **SECTION.**

- 1-2-124. Respectful language — Disabilities — Definition.

#### **1-2-124. Respectful language — Disabilities — Definition.**

(a)(1) The General Assembly recognizes that language used in reference to individuals with disabilities shapes and reflects society's attitudes toward people with disabilities. Many of the terms currently used demean the humanity and natural condition of having a disability. Certain terms are demeaning and create an invisible barrier to inclusion as equal community members.

(2) The General Assembly finds it necessary to clarify preferred language for new and revised laws by requiring the use of terminology that puts the person before the disability.

(b)(1) In any bill or resolution, the Bureau of Legislative Research shall avoid all references to:

- (A) "Disabled";
- (B) "Developmentally disabled";
- (C) "Mentally disabled";
- (D) "Mentally ill";
- (E) "Mentally retarded";
- (F) "Handicapped";
- (G) "Cripple"; and
- (H) "Crippled".

(2) The Arkansas Code Revision Commission shall change such references in any existing statute or resolution as sections including these references are republished or otherwise amended by law.

(3) The Bureau of Legislative Research and the Arkansas Code Revision Commission shall replace the inappropriate terms in subdivision (b)(1) of this section with the following terms:

- (A) "Individuals with disabilities";
- (B) "Individuals with developmental disabilities";
- (C) "Individuals with mental illness"; and
- (D) "Individuals with intellectual disabilities".

(c)(1) In any administrative rule, a state agency shall avoid the inappropriate terms in subdivision (b)(1) of this section and shall use the terms in subdivision (b)(3) of this section.

(2) If a state agency identifies a use of an inappropriate term under subdivision (b)(1) of this section in a rule, the state agency shall promulgate a revision to the rule to replace the inappropriate term with a term under subdivision (b)(3) of this section.

(3) As used in this subsection, "state agency" means any office, board, commission, department, council, bureau, or other agency of state government having authority by statute enacted by the General Assembly to promulgate or enforce administrative rules.

(d) A statute, resolution, or rule is not invalid because it does not comply with this section.

**History.** Acts 2007, No. 515, § 1; 2009, No. 975, § 1; 2011, No. 98, § 1; 2019, No. 377, § 1.

deleted former (c)(2) and (c)(4) and redesignated the remaining subdivisions accordingly.

**Amendments.** The 2019 amendment

### SUBCHAPTER 3 — ARKANSAS CODE REVISION COMMISSION

#### SECTION.

1-2-308. Acts amending Arkansas Constitution.

**Effective Dates.** Acts 2019, No. 694, § 8: Apr. 4, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that under current law the Arkansas Code Revision Commission does not have the authority to correct conflicts occurring when multiple acts amend the same provision of the Arkansas Constitution as expressly permitted by the Arkansas Constitution; that this inability to resolve conflicts makes the law unclear and impossible to publish for review and study by the citizens of the state; and that this act should become effective at the earliest

opportunity so that it may be applied to acts enacted by the Ninety-Second General Assembly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto".



**1-2-308. Acts amending Arkansas Constitution.**

(a)(1) If an act of the General Assembly amends a provision of the Arkansas Constitution as expressly permitted by the Arkansas Constitution, the Arkansas Code Revision Commission may, by a majority vote of the commission, make the following revisions to the act amending the Arkansas Constitution so long as the revisions do not change the substance or meaning of the act amending the Arkansas Constitution:

- (A) Correct the spelling of words;
- (B) Change capitalization for the purpose of uniformity;
- (C) Correct manifest typographical and grammatical errors;
- (D) Correct manifest errors in references to laws and other documents;
- (E) Correct manifest errors in internal reference numbers;
- (F) Number, renumber, redesignate, and rearrange the provision of the Arkansas Constitution at issue;
- (G) Change internal reference numbers to agree with renumbered sections, subsections, subdivisions, or other provisions of law;
- (H) Insert or delete hyphens in words to follow correct grammatical usage;
- (I) Change numerals or symbols to words or vice versa and add figures or words if they are merely repetitions of written words or vice versa for purposes of uniformity and style;
- (J) Change the form of nouns, pronouns, and verbs for purposes of style and grammar;
- (K) Correct punctuation; and
- (L) Change gender-specific language to gender-neutral language.

(2)(A) If more than one (1) act amending the same provision of the Arkansas Constitution is enacted by the General Assembly during the same session, the commission may, by a majority vote of the commission, revise the provision of the Arkansas Constitution at issue as necessary so that all of the enactments shall be given effect, including without limitation renumbering, redesignating, and rearranging sections, subsections, and subdivisions of the provision of the Arkansas Constitution at issue.

(B) In the event that one (1) or more acts amending the same provision of the Arkansas Constitution result in an irreconcilable conflict with one (1) or more acts of the General Assembly amending the Arkansas Constitution enacted during the same session, the commission may, by a majority vote of the commission, revise the provision of the Arkansas Constitution at issue so that the conflicting provision of the last enactment prevails.

(b) If the commission makes revisions under subsection (a) of this section, the commission shall file a report with the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor that:

- (1) Explains the revisions made under subsection (a) of this section; and

(2) Includes the text of the provision of the Arkansas Constitution at issue as amended by the revisions made under subsection (a) of this section.

**History.** Acts 2019, No. 694, § 7.

## CHAPTER 4

### STATE SYMBOLS, MOTTO, ETC.

#### SECTION.

- 1-4-104. Distribution of flags.
- 1-4-114. Poet laureate.
- 1-4-133. Display of national motto.
- 1-4-134. Arkansas's contribution to National Statuary Hall Collection — Legislative findings and intent.
- 1-4-135. State dinosaur.

#### SECTION.

- 1-4-136. State knife.
- 1-4-137. State primitive fish.
- 1-4-138. State firearm.
- 1-4-139. Birthplace of the Bowie Knife, Arkansas Heritage Site — Legislative findings and intent.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

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#### 1-4-104. Distribution of flags.

(a)(1) The Secretary of State shall obtain a sufficient quantity of flags of the United States and flags of the State of Arkansas in order that the flags that have been flown over the State Capitol Building may be made available to members of the House of Representatives and members of the Senate for distribution in their respective districts and to the Governor for statewide distribution, to:

- (A) Civic groups;
- (B) Schools;
- (C) Organized youth groups; and
- (D) An individual as an award in recognition of the individual's accomplishment.

(2) The flags described under this section and purchased by the Secretary of State shall be made in the United States.



(b) A sufficient quantity of flags shall be obtained to permit the Secretary of State to make available for distribution in the manner authorized in this section:

(1) Thirty (30) Arkansas flags and twenty (20) United States flags per calendar year to each member of the House of Representatives and the Senate;

(2) One hundred (100) Arkansas flags and one hundred (100) United States flags per calendar year to the office of the Governor;

(3) One hundred (100) Arkansas flags and one hundred (100) United States flags to the office of the Secretary of State;

(4) Thirty-five (35) Arkansas flags and thirty-five (35) United States flags to the office of the President Pro Tempore of the Senate;

(5) Thirty-five (35) Arkansas flags and thirty-five (35) United States flags to the office of the Speaker of the House of Representatives;

(6) Twenty-five (25) Arkansas flags and twenty-five (25) United States flags per calendar year to the:

(A) Lieutenant Governor;

(B) Treasurer of State;

(C) Auditor of State; and

(D) Commissioner of State Lands; and

(7) Twenty-five (25) United States flags and twenty-five (25) Arkansas flags per calendar year to the Division of Emergency Medical Services of the Department of Health.

(c) This section supersedes any other law of this state that provides for the Secretary of State to furnish copies of flags for distribution to groups and individuals as described in subdivision (a)(1) of this section.

**History.** Acts 1985, No. 414, §§ 1, 2; A.S.A. 1947, §§ 5-120, 5-121; Acts 1989 (1st Ex. Sess.), No. 123, § 14; 2003, No. 300, § 1; 2011, No. 1205, § 3; 2013, No. 955, § 1; 2015, No. 1184, § 1; 2019, No. 220, §§ 1, 2.

**Amendments.** The 2019 amendment, in the introductory language of (a)(1), in-

serted “for distribution in their respective districts” and “statewide”; redesignated existing provisions of (a)(1) as (a)(1)(A) through (a)(1)(C); deleted “in their respective areas” following “youth groups” in (a)(1)(C); added (a)(1)(D); rewrote (c); and made stylistic changes.

## 1-4-114. Poet laureate.

(a) The Governor is authorized to designate or appoint, by proclamation, a Poet Laureate of the State of Arkansas, which shall be an honorary title in recognition of outstanding accomplishments and contributions in poetry by a person who is a resident of the State of Arkansas.

(b)(1) The person designated or appointed by the Governor as Poet Laureate of the State of Arkansas shall be a person whose name was selected from a list of names submitted to the Governor upon recommendation of a committee consisting of:

(A) Two (2) principal heads of English departments of state-supported universities or colleges who are selected by the Director of the Division of Higher Education; and

(B) Two (2) members of the Poets’ Roundtable of Arkansas who are selected by the President of the Poets’ Roundtable of Arkansas.

(2)(A) The person serving as Poet Laureate of the State of Arkansas on August 1, 2017, shall serve until the person’s death or resignation from the position.

(B) The term of a Poet Laureate of the State of Arkansas appointed after August 1, 2017, is four (4) years.

**History.** Acts 1971, No. 90, § 1; A.S.A. substituted “Division of Higher Education” for “Department of Higher Education” in (b)(1)(A). 1947, § 5-111.1; Acts 2017, No. 292, § 1; 2019, No. 910, § 1031.

**Amendments.** The 2019 amendment

### 1-4-133. Display of national motto.

(a)(1) If funds under subsection (b) of this section are available, local school superintendents, local building administrators, or chief administrators of the public schools in this state, or institutions of higher education, or their respective designees, and the administrative officials of state agencies, or their respective designees, shall prominently display in a conspicuous place in a location described in subdivision (a)(2) of this section a durable poster or framed copy containing:

(A)(i) The national motto of the United States, “In God We Trust”.

(ii) The national motto shall:

(a) Be easily readable on a poster or framed copy of at least eleven inches by fourteen inches (11” x 14”);

(b) Be the central focus of the poster or framed copy; and

(c) Be displayed in a large font size;

(B) An accurate representation of the United States flag, which shall be under the national motto; and

(C) An accurate representation of the Arkansas state flag or flags.

(2) The durable posters or framed copies donated or purchased under subdivision (a)(1) of this section shall be displayed in each:

(A) Public institution of higher education and elementary and secondary school library and classroom in this state; and

(B) Public building or facility in this state that is maintained or operated by state funds.

(b) The copies or posters authorized under this section shall either be donated or shall be purchased solely with funds made available through voluntary contributions to the local school boards, local building governing entity, or the Building Authority Division.

**History.** Acts 2017, No. 911, § 1; 2019, No. 604, § 1; 2019, No. 910, § 6052. The 2019 amendment by No. 910 deleted “of the Department of Finance and Administration” at the end of (b).

**Amendments.** The 2019 amendment by No. 604 rewrote (a); and inserted “local building governing entity” in (b).



#### **1-4-134. Arkansas's contribution to National Statuary Hall Collection — Legislative findings and intent.**

(a) The General Assembly finds that:

(1) Pursuant to an act of the United States Congress, Arkansas is entitled to have placed in the National Statuary Hall Collection in the United States Capitol statues, in marble or bronze, not exceeding two (2) in number, of deceased persons who were citizens of Arkansas, and illustrious for their historic renown, or for distinguished civil or military service, whom Arkansas deems to be worthy of this national commemoration;

(2) Arkansas has two (2) statues presently displayed in the National Statuary Hall Collection, one (1) dedicated to U.M. Rose by Senate Concurrent Resolution No. 6, Acts 1915, p. 1486, and one (1) dedicated to James P. Clarke by Acts 1917, No. 58;

(3) Agreement by the General Assembly is required by federal law to replace the existing statues of U.M. Rose and James P. Clarke with statues of Daisy Lee Gatson Bates and John R. "Johnny" Cash;

(4) Daisy Lee Gatson Bates, a citizen of Arkansas, served as a civil rights activist, writer, and publisher who worked and documented the struggle to end segregation in Arkansas;

(5) Daisy Lee Gatson Bates is an inspiration through her lifelong career of social activism and her dedication to ending segregation in Arkansas;

(6) John R. "Johnny" Cash, a citizen of Arkansas, is a legendary musician, who sold over ninety million (90,000,000) records, is one of the few people to be recognized in both the Country Music Hall of Fame and the Rock and Roll Hall of Fame, and who received numerous awards for his work; and

(7) John R. "Johnny" Cash articulated the story of his life in Arkansas through his music and made historic contributions to the musical history of our state and country.

(b) The General Assembly finds and resolves that the statues of U.M. Rose and James P. Clarke located in the National Statuary Hall Collection in the United States Capitol should be removed and replaced with statues of Daisy Lee Gatson Bates and John R. "Johnny" Cash.

(c) The Secretary of State shall:

(1) Submit to the person responsible for the National Statuary Hall Collection in the United States Capitol a written request to approve the replacement of both of the statues commemorating the distinguished service of Arkansas notable citizens and provided by the State of Arkansas currently on display in the National Statuary Hall Collection in the United States Capitol;

(2) Coordinate with Arkansas's congressional delegation to provide all documentation necessary to comply with federal law regarding the National Statuary Hall Collection in the United States Capitol; and

(3) Enter into all agreements required by federal law to replace both of the statues in the National Statuary Hall Collection in the United States Capitol.

(d) The General Assembly designates the following citizens of Arkansas to be represented in the National Statuary Hall Collection in the United States Capitol:

- (1) Daisy Lee Gatson Bates; and
- (2) John R. "Johnny" Cash.

(e) For the statues to be displayed in the National Statuary Hall Collection in the United States Capitol, the Secretary of State shall:

(1) Receive funds for the design, completion, transport, and display of the statue representing Daisy Lee Gatson Bates under subdivision (d)(1) of this section or the statue representing John R. "Johnny" Cash under subdivision (d)(2) of this section, or both, including without limitation:

(A) Appropriations made specific to this section; and

(B) Private gifts, grants, and donations from individuals and organizations to be deposited as trust funds into the National Statuary Hall Collection Trust Fund;

(2) Provide communication and outreach methods to fund the completion, transport, and display of the statue representing Daisy Lee Gatson Bates under subdivision (d)(1) of this section or the statue representing John R. "Johnny" Cash under subdivision (d)(2) of this section, or both;

(3) Enter into all necessary contracts for the design, completion, transport, and display of the statue representing Daisy Lee Gatson Bates under subdivision (d)(1) of this section or the statue representing John R. "Johnny" Cash under subdivision (d)(2) of this section, or both;

(4) Prior to the approval of the design, material, production, and method of display of the statue representing Daisy Lee Gatson Bates under subdivision (d)(1) of this section or the statue representing John R. "Johnny" Cash under subdivision (d)(2) of this section, or both, submit the proposed action for review by:

(A) The Legislative Council or the Joint Budget Committee if the General Assembly is in session;

(B) The Capitol Arts and Grounds Commission; and

(C) Any other commission established to facilitate the purposes of this section;

(5) Remove and relocate the existing statue representing U.M. Rose and the existing statue representing James P. Clarke in the National Statuary Hall Collection in the United States Capitol; and

(6) Organize an event unveiling the statue representing Daisy Lee Gatson Bates and the statue representing John R. "Johnny" Cash.

(f) The Secretary of State and the Capitol Arts and Grounds Commission are not responsible for funding any costs specific to this section from sources not designated specifically to the placement and replacement of Arkansas statues in the National Statuary Hall Collection in the United States Capitol.



“(a) The Secretary of State may promulgate rules necessary to implement this act.

“(b)(1) If adopting necessary initial rules to implement this act, a final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

“(A) On or before March 1, 2020; or

“(B) If approval under § 10-3-309 has not occurred by March 1, 2020, as soon as practicable after approval under § 10-3-309.

“(2) The Secretary of State shall file any necessary proposed rules with the Legislative Council under § 10-3-309 sufficiently in advance of March 1, 2020, so that the Legislative Council may consider the rule for approval before March 1, 2020.”

**Amendments.** The 2019 amendment added “Coordinate with Arkansas’s congressional delegation to” in (c)(2); deleted (c)(4); rewrote (e); added (f); and made a stylistic change.

### 1-4-135. State dinosaur.

(a) The *Arkansaurus fridayi* is designated as the official dinosaur of the State of Arkansas.

(b)(1) This section does not require a state agency or office to republish a publication or brochure to list or display the state dinosaur.

(2) A state agency or office may include information concerning the state dinosaur in a future publication or brochure or in a scheduled update to a publication or brochure.

**History.** Acts 2019, No. 377, § 2.

### 1-4-136. State knife.

The Bowie knife is designated the official knife of the State of Arkansas.

**History.** Acts 2019, No. 510, § 2.

**A.C.R.C. Notes.** Acts 2019, No. 510, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that the:

“(1) Bowie knife has played an important part in Arkansas history;

“(2) Bowie knife was known as early as 1835 as an ‘Arkansas Toothpick’;

“(3) Bowie knife was used in Arkansas in 1836 when Arkansas was admitted to the union;

“(4) Bowie knife is regarded as Arkansas’s most famous weapon; and

“(5) Bowie knife continues to be produced by artisans for use by outdoorsmen and hunters in the state.

“(b) It is the intent of the General Assembly to recognize the significance of the Bowie knife in the history of Arkansas.”

### 1-4-137. State primitive fish.

(a) The alligator gar is designated the official primitive fish of the State of Arkansas.

(b)(1) This section does not require a state agency or office to republish a publication or brochure in order to list or display the alligator gar.

(2) A state agency or office may include the information concerning the state primitive fish in future publications or brochures or in a scheduled update to a publication or brochure.

(c) This section does not grant a protected status to the alligator gar.

**History.** Acts 2019, No. 576, § 2.

**A.C.R.C. Notes.** Acts 2019, No. 576, § 1, provided: “Legislative intent. The General Assembly finds:

“(1) Arkansas is one (1) of only five (5) states that does not designate an official state fish;

“(2) The designation of an official state primitive fish provides conservation and educational benefits, increases interest in Arkansas’s rich and diverse fauna, and promotes the important study of fisheries and ichthyology;

“(3) The alligator gar, *Atractosteus spatula*, is commonly recognized by most citizens of the State of Arkansas for its razor-sharp teeth and its stone-hard scales, which make it as tough as the Arkansas Razorback;

“(4) Alligator gar in Arkansas have been known to exceed eight feet (8') in

length and two hundred forty pounds (240 lbs.) in weight, by far the largest fish in Arkansas;

“(5) The alligator gar has for centuries been one (1) of Arkansas’s most remarkable resident creatures, with its scales used by Native Americans for arrowheads and its striking features likely noted by Spanish explorer Hernando De Soto, who described eating a fish ‘the size of a hog, with rows of teeth above and below’ in his exploration in the 1500s of what later became the State of Arkansas; and

“(6) While acknowledging the known diversity of fishes represented in Arkansas’s lakes and rivers, the General Assembly concludes that the alligator gar shall represent the State of Arkansas as the official primitive fish of the State of Arkansas.”

#### 1-4-138. State firearm.

The shotgun is designated the official firearm of the State of Arkansas.

**History.** Acts 2019, No. 685, § 2.

**A.C.R.C. Notes.** Acts 2019, No. 685, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that:

“(1) The right to hunt, fish, trap, and harvest wildlife is a right guaranteed by the Arkansas Constitution;

“(2) Hunting provides a recreational and economic benefit to the citizens of the state;

“(3) The shotgun is the primary weapon used for hunting waterfowl in the state; and

“(4) The shotgun was in use for hunting in the state before 1836 when Arkansas was admitted to the Union.

“(b) It is the intent of the General Assembly to recognize the important role the shotgun plays in hunting in Arkansas.”

#### 1-4-139. Birthplace of the Bowie Knife, Arkansas Heritage Site — Legislative findings and intent.

(a) The General Assembly finds that:

(1) The Bowie knife has been designated the official knife of the State of Arkansas;

(2) The Bowie knife is recognized as Arkansas’s most famous blade weapon and the national American blade;

(3) Arkansas blacksmith James Black crafted an original Bowie knife in Washington, Hempstead County, Arkansas, in 1831;

(4) Washington, Arkansas, and James Black became almost immediately famous as the birthplace and creator of the Bowie knife, respectively;



(5) James Black continued to refine and improve his Bowie knife design into the world's toughest but most flexible knife from his shop in Washington, Arkansas; and

(6) Because of the Bowie knife's national reputation, Washington, Arkansas, later became the location of the world's first recognized school of bladesmithing.

(b)(1) Washington, Hempstead County, Arkansas, is designated the "Birthplace of the Bowie Knife, Arkansas Heritage Site".

(2) The designation of Washington, Hempstead County, Arkansas, as the "Birthplace of the Bowie Knife, Arkansas Heritage Site" is essential to:

(A) Celebrate, protect, and preserve the history and status of the Arkansas-created Bowie knife throughout Arkansas, the United States, and the world; and

(B) Preserve bladesmithing history and heritage, promote heritage arts and bladesmithing tourism in the area, and provide a historically accurate site designation for a heritage arts and bladesmithing enthusiast.

(c) The University of Arkansas Community College at Hope-Texarkana is designated to develop and operate a school of bladesmithing located in Washington, Arkansas, to promote and protect the art of bladesmithing and the Bowie knife crafted there.

(d)(1) The Arkansas Department of Transportation, in consultation with the Department of Parks, Heritage, and Tourism and the University of Arkansas Community College at Hope-Texarkana, shall design a sign that displays the words and any logo for the "Birthplace of the Bowie Knife, Arkansas Heritage Site".

(2) The sign shall be placed on or about the location of the school of bladesmithing developed and operated in Washington, Arkansas, by the University of Arkansas Community College at Hope-Texarkana.

(3) Information regarding the proper placement of copies of the sign at additional locations to promote and direct tourism to Washington, Arkansas, shall be made available by the Arkansas Department of Transportation.

(4) The sign in appropriate scale shall be used as the symbol on the state highway map and in all tourism mediums published by the Department of Parks, Heritage, and Tourism to indicate the "Birthplace of the Bowie Knife, Arkansas Heritage Site".

(e)(1) The Division of Arkansas Heritage shall promulgate rules necessary to implement this section.

(2)(A) When adopting the initial rules to implement this section, the final rule shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(i) On or before January 1, 2020; or

(ii) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(B) The division shall file the proposed rule with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,

2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

**History.** Acts 2019, No. 818, § 1.

## CHAPTER 5

### HOLIDAYS AND OBSERVANCES

#### SECTION.

1-5-106. Memorial days generally.

1-5-117. Arkansas Music Appreciation Day.

#### SECTION.

1-5-118. National Day of the Cowboy.

1-5-119. Sultana Disaster Remembrance Day.

#### 1-5-106. Memorial days generally.

The following days shall not be legal holidays but shall be memorial days to be commemorated by the issuance of appropriate proclamations by the Governor:

- (1) General Douglas MacArthur Day — January 26;
- (2) Silas Hunt Day — February 2;
- (3) Abraham Lincoln's Birthday — February 12;
- (4) Arkansas Teachers' Day — First Tuesday in March;
- (5) Arbor Day — Third Monday in March;
- (6) Patriots' Day — April 19;
- (7) Arkansas Bird Day — April 26;
- (8) Good Friday — Friday preceding Easter;
- (9) Jefferson Davis' Birthday — June 3;
- (10) Columbus Day — October 12;
- (11) Senator Hattie W. Caraway Day — December 19;
- (12) Robert E. Lee Day — Second Saturday in October; and
- (13) John H. Johnson Day — November 1.

**History.** Acts 1943, No. 211, § 2; 1947, No. 215, § 2; 1967, No. 500, § 1; 1973, No. 7, § 1; 1975, No. 291, § 1; 1977, No. 372, § 1; 1977, No. 538, § 1; 1979, No. 385, § 1; A.S.A. 1947, §§ 69-102, 69-114, 69-116; Acts 2001, No. 1218, § 1; 2007, No. 374, § 1; 2017, No. 561, § 5; 2019, No. 1062, § 2.

**A.C.R.C. Notes.** Acts 2019, No. 1062, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly finds that:

"(1) John H. Johnson is widely regarded as the most influential African-American publisher in United States history;

"(2) Mr. Johnson was born in Arkansas City, Arkansas, where he lived until he was in the eighth grade;

"(3) After moving to Chicago to attend high school and college, Mr. Johnson began his publishing career;

"(4) In 1945, Mr. Johnson launched Ebony which has remained a widely circulated African-American magazine in the world every year since its founding;

"(5) Mr. Johnson's publishing career expanded with the creation of Jet, the world's largest African-American news-weekly magazine, and he later expanded his business interests to book publishing, television production, and other business enterprises;

"(6) In addition to his business and publishing careers, Mr. Johnson was highly involved in community service at both the local and the national level; and



“(7) Over the course of decades, Mr. Johnson served as a board member or trustee for numerous business, philanthropic, and cultural organizations, and received numerous awards, including the Presidential Medal of Freedom awarded in 1996 awarded by President Bill Clinton, and more than thirty honorary doctoral degrees from institutions across the country.

“(b) It is the intent of the General Assembly to recognize John H. Johnson and his achievements and contributions to the state and the nation by enacting a memorial day in his honor to be celebrated on November 1 each year.”

**Amendments.** The 2019 amendment added (13).

### **1-5-117. Arkansas Music Appreciation Day.**

(a) The General Assembly finds that Arkansas has a proud history of contributing music and musicians to the nation, including without limitation:

- (1) Johnny Cash;
- (2) B. B. King;
- (3) Glen Campbell;
- (4) Charlie Rich;
- (5) Sister Rosetta Tharpe;
- (6) Al Green;
- (7) Conway Twitty; and
- (8) Floyd Cramer.

(b) September 1 of each year shall be known as “Arkansas Music Appreciation Day” to honor the contributions of Arkansas musicians.

(c)(1) Arkansas Music Appreciation Day is not a legal holiday but is a memorial day.

(2) The Governor may issue the appropriate proclamation to commemorate Arkansas Music Appreciation Day each year.

(d) Each year before September 1, the Governor shall issue a proclamation proclaiming September 1 as Arkansas Music Appreciation Day and in the proclamation shall:

(1) Comment on the significance of the contributions that Arkansas musicians have made to the nation’s music; and

(2) Call upon the citizens of the state to observe Arkansas Music Appreciation Day.

**History.** Acts 2019, No. 546, § 1.

### **1-5-118. National Day of the Cowboy.**

(a) The General Assembly finds that:

(1) Pioneering men and women helped build the nation with their ranches and farms, and livestock and agriculture play a vital role in the economic well-being of Arkansas communities;

(2) The quintessential cowboy and cowgirl play a significant role in American culture, and embody integrity, respect, a strong work ethic, and patriotism, known as the “cowboy code”;

(3) The vaquero spirit of competition among ranch cowboys and cowgirls is reflected in rodeo events throughout the state that contribute to tourism and the economy;

(4) Many statewide organizations recognize and encourage young cowboys and cowgirls to be excellent stewards of the land and to preserve this foundation of American heritage;

(5) Arkansas is the birthplace of cowboy book and film icons, including:

(A) Charles Portis, who was born in El Dorado, educated at the University of Arkansas at Fayetteville, and authored the cowboy novel "True Grit";

(B) Maxwell Henry Aronson, who was born in Little Rock, became the actor "Bronco Billy" Anderson, and was the first cowboy superstar, starring in over three hundred (300) movies and paving the way for other famous cowboy actors; and

(C) Betty Jeanne Grayson, who was also born in Little Rock, became actress Gail Davis, and inspired young cowgirls as "Annie Oakley" in the 1950s television series of the same name; and

(6) Many states have declared an annual day to commemorate cowboys.

(b) The fourth Saturday in July shall be known as "National Day of the Cowboy" to commemorate America's cowboy heritage.

(c) National Day of the Cowboy is not a legal holiday but is a memorial day to be commemorated by the issuance of an appropriate proclamation by the Governor.

**History.** Acts 2019, No. 601, § 1.

### **1-5-119. Sultana Disaster Remembrance Day.**

(a) The General Assembly finds that:

(1) The steamboat Sultana was launched from the John Litherbury Shipyard in Cincinnati, Ohio, in February 1863 as one of the largest and best business steamers ever constructed;

(2) Its capacity of three hundred seventy-six (376) passengers and crew members attracted the United States Army to commandeer it for use as a supply and soldier transport vessel during the Civil War;

(3) The United States Army chartered the Sultana at Vicksburg, Mississippi, to transport over two thousand three hundred (2,300) passengers, including over two thousand (2,000) recently released Union prisoners of war from the Andersonville and Cahaba prisons in the South back home to the North;

(4) On April 26, 1865, the Sultana stopped at Helena, Arkansas, the location at which photographer Thomas W. Bankes took the only photograph in existence of the grossly overcrowded vessel and its doomed passengers;

(5)(A) At 2:00 a.m. on April 27, 1865, the Sultana's boiler system erupted in a massive explosion just seven (7) miles north of Memphis, Tennessee, causing a conflagration of fire and flying shrapnel and the



venting of deadly steam that resulted in over two thousand (2,000) casualties, of which more than one thousand two hundred (1,200) died from the explosion itself.

(B) Nearly seven hundred (700) more individuals were dragged to safety over several hours and taken to five (5) Memphis hospitals, with many perishing later from injuries, burns, and exposure to the frigid Mississippi River floodwaters;

(6) Several Crittenden County, Arkansas, citizens were officially credited with saving dozens of lives that night by wading into the flooded Mississippi River to retrieve victims of the tragedy as they floated downriver;

(7) The event was made all the more tragic by evidence of greed, corruption, malfeasance in office, and dereliction of officer duty, as noted by a following United States Army investigation into the disaster;

(8) The event occurred in the Mound City, Arkansas, and Marion, Arkansas, areas of the Mississippi River, places where the remains of the Sultana and its lost souls still rest today and where Arkansas citizens were the saviors of many survivors that night;

(9) The United States House of Representatives passed a resolution in 2009 acknowledging the explosion of the SS Sultana as the greatest maritime disaster in United States history; and

(10) The lives and service of all the soldiers, passengers, and local citizens involved in the tragedy are currently honored and recognized with a temporary exhibit of Sultana artifacts in Marion, Arkansas, with plans for a permanent Sultana Disaster Museum by 2020 in Marion, Arkansas.

(b) April 27 each year shall be known as “Sultana Disaster Remembrance Day” to commemorate Arkansas’s role in the greatest maritime disaster in United States history.

(c) Sultana Disaster Remembrance Day is not a legal holiday but is a memorial day to be commemorated by the issuance of an appropriate proclamation by the Governor.

**History.** Acts 2019, No. 791, § 1.





# **TITLE 2**

## **AGRICULTURE**

### *SUBTITLE 1. GENERAL PROVISIONS*

#### CHAPTER.

1. GENERAL PROVISIONS.
5. DOMESTIC FISH FARMING.
6. CATFISH PROCESSOR FAIR PRACTICES ACT.
7. FARM MEDIATION.
9. CATFISH INDUSTRY.
10. ARKANSAS MILK STABILIZATION BOARD.

### *SUBTITLE 2. AGRONOMY*

#### CHAPTER.

15. GENERAL PROVISIONS.
16. PLANT DISEASE AND PEST CONTROL.
18. SEEDS.
19. FERTILIZERS, LIMING MATERIALS, AND SOIL AMENDMENT.
20. PROCESSING, GRADING, LABELING, AND MARKETING OF PRODUCTS.
25. ARKANSAS GRAIN GRADING ACT.

### *SUBTITLE 3. LIVESTOCK*

#### CHAPTER.

32. GENERAL PROVISIONS.
33. ARKANSAS LIVESTOCK AND POULTRY COMMISSION.
34. BRANDS AND MARKS.
35. MARKETING, SALE, AND TRANSPORTATION.
36. LIVESTOCK SHOWS AND FAIRS.
37. ARKANSAS FEED LAW OF 1997.
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## ***SUBTITLE 1. GENERAL PROVISIONS***

### **CHAPTER 1**

#### **GENERAL PROVISIONS**

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
3. TRUTH IN LABELING OF AGRICULTURAL PRODUCTS EDIBLE BY HUMANS.

#### **SUBCHAPTER 1 — GENERAL PROVISIONS**

#### SECTION.

- 2-1-102. Sustainable agriculture — Definition.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

## 2-1-102. Sustainable agriculture — Definition.

- (a) As used in this section, “sustainable” includes without limitation:
  - (1) Science-based practices supported by research; and
  - (2) The use of technology that is demonstrated to lead to broad, outcomes-based performance improvements that:
    - (A) Meet the needs of the present; and
    - (B) Improve the ability of future generations to meet their needs while advancing progress toward environmental, social, and economic goals and the well-being of agricultural producers and rural communities.
- (b) Sustainable agriculture may use continuous improvement principles with goals that include without limitation:
  - (1) Increasing agricultural productivity;
  - (2) Improving human health through access to safe, nutritious, and affordable food; and
  - (3) Enhancing agricultural and surrounding environments, including without limitation water, soil, and air quality, biodiversity, and habitat preservation.
- (c)(1) The Department of Agriculture and the State Plant Board shall interpret any administrative rule or federal rule or regulation promulgated by a state or federal agency that establishes standards for harvesting or producing agricultural crops in accordance with the definition and guidelines provided in this section.
- (2) This section does not apply to silviculture and any state rules or federal rules or regulations regarding silviculture.

**History.** Acts 2011, No. 1196, § 1; 2019, No. 315, § 2; 2019, No. 910, § 9.

**Amendments.** The 2019 amendment by No. 315 inserted “federal rule or” in (c)(1); and substituted “state rules or federal rules or regulations” for “rules or regulations” in (c)(2).

The 2019 amendment by No. 910 substituted “Department of Agriculture” for “Arkansas Agriculture Department” in (c)(1).



SUBCHAPTER 3 — TRUTH IN LABELING OF AGRICULTURAL PRODUCTS EDIBLE BY HUMANS

SECTION.	SECTION.
2-1-301. Legislative purpose.	2-1-304. Administration.
2-1-302. Definitions.	2-1-305. Prohibited activities.
2-1-303. Applicability.	2-1-306. Civil penalty.

**A.C.R.C. Notes.** Act 2019, No. 501, § 2, provided: “Severability Clause. If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this act which can be given effect without the invalid provision or application, and to

this end, the provisions of this act are declared severable.”  
**Publisher’s Notes.** See also § 25-38-203(b), added by Acts 2019, No. 741, § 2, which concerns labeling of horticultural, viticultural, livestock, and poultry products that are edible by humans and provides for civil penalties.

2-1-301. Legislative purpose.

The purpose of this subchapter is to protect consumers from being misled or confused by false or misleading labeling of agricultural products that are edible by humans.

**History.** Acts 2019, No. 501, § 1.

2-1-302. Definitions.

As used in this subchapter:

- (1) “Agricultural product” means a horticultural, viticultural, forestry, dairy, livestock, poultry, or bee product or any other farm, ranch, plantation, or range product;
  - (2) “Beef” means the flesh of a domesticated bovine, such as a steer or cow, that is edible by humans;
  - (3) “Beef product” means an agricultural product that is edible by humans and produced in whole or in part from beef, including without limitation beef jerky, beef patties, chopped beef, fabricated steak, hamburger, ground beef, ribs, and roast;
  - (4) “Label” means a display of written, printed, or graphic matter upon or affixed to the container or wrapper in which an agricultural product that is edible by humans is offered for direct retail sale;
  - (5) “Labeling” means the act of identifying, describing, or advertising an agricultural product that is edible by humans by means of the label or through other means;
  - (6) “Livestock” means swine, bovines, sheep, and goats;
  - (7)(A) “Meat” means a portion of a livestock, poultry, or cervid carcass that is edible by humans.
  - (B) “Meat” does not include a:
    - (i) Synthetic product derived from a plant, insect, or other source;
- or

(ii) Product grown in a laboratory from animal cells;

(8) “Meat product” means an agricultural product that is edible by humans and made wholly or in part from meat or another portion of a livestock, poultry, or cervid carcass;

(9) “Misbrand” means to identify an agricultural product edible by humans in a false or misleading way;

(10) “Misrepresent” means to use any untrue, misleading, or deceptive oral or written statement, advertising, label, display, picture, illustration, or sample;

(11) “Person” means an individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or other entity doing business in Arkansas;

(12) “Pork” means the flesh of a domesticated swine that is edible by humans;

(13) “Pork product” means an agricultural product that is edible by humans and produced in whole or in part from pork, including without limitation bacon, bratwurst, ground pork, ham, pork chops, ribs, roast, and sausage;

(14) “Poultry” means domestic birds that are edible by humans; and

(15) “Rice” means the whole, broken, or ground kernels or by-products obtained from the species *Oryza sativa* L. or *Oryza glaberrima*, or wild rice, which is obtained from one (1) of the four (4) species of grasses from the genus *Zizania* or *Porteresia*.

**History.** Acts 2019, No. 501, § 1.

### **2-1-303. Applicability.**

This subchapter applies only to a person that places a label on an agricultural product that is edible by humans.

**History.** Acts 2019, No. 501, § 1.

### **2-1-304. Administration.**

The Director of the Arkansas Bureau of Standards shall:

(1) Administer and enforce this subchapter;

(2) Promulgate rules to implement the purposes and requirements of this subchapter; and

(3) Receive and investigate complaints regarding alleged violations of this subchapter and the rules promulgated by the director.

**History.** Acts 2019, No. 501, § 1.

### **2-1-305. Prohibited activities.**

A person shall not misbrand or misrepresent an agricultural product that is edible by humans, including without limitation by:

(1) Affixing a label that is false or misleading;

(2) Selling the agricultural product under the name of another food;



- (3) Omitting information required under § 20-56-209 from the label;
- (4) Placing information on the label in a way that does not conform with the requirements under § 20-56-209;
- (5) Representing the agricultural product as a food for which a definition and standard of identity has been provided by regulations under § 20-56-219 or by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., as it existed on January 1, 2019, unless:
  - (A) The agricultural product conforms to the definition and standard; and
  - (B) The label of the agricultural product bears the name of the food specified in the definition and standard and includes the common names of optional ingredients other than spices, flavoring, and coloring present in the food as regulations require;
- (6) Representing the agricultural product as meat or a meat product when the agricultural product is not derived from harvested livestock, poultry, or cervids;
- (7) Representing the agricultural product as rice when the agricultural product is not rice;
- (8) Representing the agricultural product as beef or a beef product when the agricultural product is not derived from a domesticated bovine;
- (9) Representing the agricultural product as pork or a pork product when the agricultural product is not derived from a domesticated swine;
- (10) Utilizing a term that is the same as or similar to a term that has been used or defined historically in reference to a specific agricultural product; or
- (11) Affixing a label that uses a variation of rice in the name of the agricultural product when the agricultural product is not rice or derived from rice.

**History.** Acts 2019, No. 501, § 1.

## **2-1-306. Civil penalty.**

- (a)(1) A person that violates § 2-1-305 shall be fined an amount not to exceed one thousand dollars (\$1,000) for each violation.
- (2) Each item that violates § 2-1-305 constitutes a separate violation subject to the civil penalty provided in subdivision (a)(1) of this section.
- (b)(1) A person subject to a civil penalty under subsection (a) of this section may request an administrative hearing within ten (10) calendar days after receipt of the notice of the penalty.
  - (2) Upon request, the Director of the Arkansas Bureau of Standards shall conduct a hearing after giving appropriate notice to the person, and the decision of the director is subject to appropriate judicial review.
  - (3)(A) If a person subject to a civil penalty under subsection (a) of this section has exhausted all administrative appeals and the civil penalty has been upheld, the person or entity shall pay the civil penalty

within twenty (20) calendar days after the effective date of the final decision.

(B) If the person fails to pay the civil penalty as required under this section, a civil action may be brought by the director in a court of competent jurisdiction to recover the civil penalty.

(C) A civil penalty collected under this section shall be deposited into the Plant Board Fund.

(c) The director may waive a civil penalty for a violation of § 2-1-305 if:

(1) He or she determines that the violation was accidental, erroneous, or unintentional; or

(2) The person that violated § 2-1-305 publicly acknowledges the violation and issues a voluntary recall for the mislabeled products.

**History.** Acts 2019, No. 501, § 1.

## CHAPTER 5

### DOMESTIC FISH FARMING

#### SUBCHAPTER.

#### 2. COMMERCIAL BAIT AND ORNAMENTAL FISH ACT.

#### SUBCHAPTER 2 — COMMERCIAL BAIT AND ORNAMENTAL FISH ACT

#### SECTION.

#### 2-5-207. Unlawful acts — Penalties — Revocation of certificate.

#### **2-5-207. Unlawful acts — Penalties — Revocation of certificate.**

(a) It is unlawful for any person to:

(1) Use the term “Arkansas certified” or any similar term concerning the quality of bait or ornamental fish without the proper certification from the State Plant Board;

(2) Falsely advertise or represent any bait or ornamental fish as being certified by the board;

(3) Use any emblem, label, or language for the purpose of misleading a person into believing that any bait or ornamental fish has been certified by the board when the certification has not been obtained;

(4) Misuse any tag, label, or certificate issued by the board;

(5) Obtain or attempt to obtain the certification of any bait or ornamental fish by making a false statement or misrepresentation to the board or to the board’s inspectors, deputies, or agents;

(6) Violate any rule of the board under this subchapter; or

(7) Violate any agreement made as a condition for receiving a certificate.

(b) Any person who pleads guilty or nolo contendere to or is found guilty of violating this section is guilty of a violation and shall be



punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500) for each offense.

(c)(1) A certificate issued under this subchapter may be revoked by the Director of the State Plant Board after a hearing before the director, regardless of whether a prosecution is commenced.

(2)(A) Any person whose certificate is revoked by the director is entitled to an appeal to the board.

(B) The decision of the board on appeal is final.

**History.** Acts 2005, No. 1449, § 1; deleted “or regulation” following “rule” in 2007, No. 827, § 1; 2019, No. 315, § 3. (a)(6).

**Amendments.** The 2019 amendment

## CHAPTER 6

### CATFISH PROCESSOR FAIR PRACTICES ACT

#### SECTION.

2-6-105. Registration and suspension —  
Exception.

#### SECTION.

2-6-106. Unlawful practices — Penalties.

#### **2-6-105. Registration and suspension — Exception.**

(a)(1) Except as provided in subsection (e) of this section, every catfish processor in the state shall register with the State Plant Board.

(2) Applications for registration as a catfish processor under this chapter shall be made on forms prescribed by the Director of the State Plant Board.

(3) Every application is to be accompanied by an application fee of one hundred fifty dollars (\$150), a certified financial statement in a form prescribed by the director, and any further information the director may by rule require.

(b) The board shall promulgate such rules as necessary to secure the performance of catfish purchasing obligations.

(c) Whenever, after due notice and hearing, the board finds any registrant is insolvent or has violated any provisions of this chapter, it may issue an order suspending the registrant for a reasonable specified period. The order of suspension shall take effect within five (5) days unless suspended, modified, or set aside by the board or a court of competent jurisdiction.

(d) If the board finds any processor is insolvent, is issuing invalid or insufficient checks, or is causing a breach of contract with the producer by failure to pay the producer in accordance with the contract, the board shall issue an order requiring the processor to cease and desist from purchasing catfish except under such conditions as the board may prescribe to effectuate the purposes of this chapter.

(e) Those processors whose average annual purchases from catfish producers do not exceed one hundred thousand dollars (\$100,000) shall be exempt from the provisions of this section.

**History.** Acts 1987, No. 365, § 6; 1989 (3rd Ex. Sess.), No. 53, § 3; 1995, No. 190, § 1; 1995, No. 191, § 1; 2019, No. 315, § 4.

**Amendments.** The 2019 amendment substituted “rule” for “regulation” in (a)(3); and deleted “and regulations” following “rules” in (b).

## **2-6-106. Unlawful practices — Penalties.**

(a)(1) With respect to catfish or catfish products, it shall be unlawful for any processor to engage in or use any unfair, unjustly discriminatory, or deceptive practice.

(2) If any person subject to this chapter violates any of the provisions of this chapter or of any order of the State Plant Board under this chapter relating to the purchase, sale, or handling of catfish, he or she shall be liable to the person injured for the full amount of damages sustained in consequence of the violation.

(b) This liability may be enforced either by complaint to the board or by suit in any circuit court of competent jurisdiction. This section shall not in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this section are in addition to those remedies.

(c) The board is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under this chapter, notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

(d) The board may assess civil penalties against any Class A registrant as follows:

(1) Not more than fifty dollars (\$50.00) for each day payment to the producer is late under § 2-6-107(a)(2);

(2) Not more than one hundred dollars (\$100) for each day payment to the producer is late under the contract between the registrant and the producer; and

(3) In instances where the registrant has paid a producer with an invalid or insufficient check, not more than two hundred dollars (\$200) for each day the check is invalid or insufficiently funded.

**History.** Acts 1987, No. 365, §§ 7, 9, 10; 1989 (3rd Ex. Sess.), No. 53, § 4; 2019, No. 315, § 5.

**Amendments.** The 2019 amendment deleted “or regulation” following “rule” in the first sentence of (c).

## **CHAPTER 7**

### **FARM MEDIATION**

#### **SUBCHAPTER.**

#### **2. FARM MEDIATION OFFICE.**



**SUBCHAPTER 2 — FARM MEDIATION OFFICE**

## SECTION.

**2-7-201. Creation.**

**Effective Dates.** Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

**2-7-201. Creation.**

(a) There is hereby created within the Department of Agriculture the Arkansas Farm Mediation Office which shall administer the Arkansas Farm Mediation Program to provide mediation and debt management services to farmers and their creditors in the State of Arkansas.

(b)(1) The program shall be administered by the Secretary of the Department of Agriculture who shall employ mediators and administrative staff in such numbers as are necessary and as the General Assembly may appropriate to carry out the provisions of this chapter.

(2) The Secretary of the Department of Agriculture may apply to the United States Secretary of Agriculture or any other agency or department for any financial assistance for the administration and operation of the program.

(3) The Secretary of the Department of Agriculture or his or her designee shall select mediators who are knowledgeable in the areas of finance, agriculture, and negotiation and shall train them in any other matters as are necessary to carry out their functions under this chapter.

(4) The Secretary of the Department of Agriculture may promulgate rules to carry out the provisions of this chapter.

**History.** Acts 1989, No. 829, § 3; 2015, No. 1060, § 1; 2019, No. 910, § 10.

**Amendments.** The 2019 amendment substituted "Department of Agriculture" for "Arkansas Development Finance Au-

thority" in (a); and substituted "Secretary of the Department of Agriculture" for "President of the Arkansas Development Finance Authority" and "president" throughout (b).

## CHAPTER 9

### CATFISH INDUSTRY

**SECTION.**

2-9-106. Voter referenda.

2-9-107. Election vote for levy of the assessment.

**SECTION.**

2-9-109. Assessment records.

2-9-110. Assessment refund.

2-9-111. Penalty.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

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#### 2-9-106. Voter referenda.

(a) The Arkansas Catfish Promotion Board shall maintain a list of commercial producers of catfish who are entitled to vote in referenda, shall prepare ballots for the referenda, and shall prescribe voting procedures. The board shall mail a ballot by registered mail to every commercial catfish producer identified on the list maintained by the board. Each producer shall be entitled to only one (1) vote.

(b) In all referenda, in order to be eligible to vote, a commercial catfish producer must have purchased catfish feed in the period from twelve (12) months immediately preceding the date of the referendum to not less than thirty (30) calendar days immediately preceding the date of the referendum.

(c) The Secretary of the Department of Finance and Administration shall be reimbursed from funds collected for the costs of holding referenda.

**History.** Acts 1999, No. 790, § 7; 2019, No. 910, § 3266.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (c).

#### 2-9-107. Election vote for levy of the assessment.

(a)(1) Within a reasonable time after July 30, 1999, the Arkansas Catfish Promotion Board shall cause an election to be held on the question of the levy of an assessment on the sale of catfish feed within the State of Arkansas to commercial catfish producers at a rate



determined by the board, such rate of assessment not to exceed five dollars (\$5.00) per ton of catfish feed sold.

(2) If a majority of the commercial catfish producers voting at the election vote for the levy of the assessment, the assessment shall be applicable to all sales of catfish feed made on and after a date specified by the board, which date shall not be later than ninety (90) calendar days after certification of the results of the election.

(3) The assessment shall be a continuing levy until either terminated by the board or until another election is held at which a majority of the commercial catfish producers voting at an election vote against the levy. The rate of assessment approved at an election shall not be increased except under the majority vote of the commercial catfish producers voting at a subsequent election.

(b)(1) When petitions containing the signatures of thirty percent (30%) of the commercial catfish producers in the state, as determined by the latest available agricultural census data, are filed with the board requesting that the question of continuing the assessment be submitted to a vote of the catfish producers, the board shall cause an election to be held within ninety (90) calendar days after the filing of the petitions, to be conducted in the same manner as the initial election held on the question of the levy of the assessment.

(2) If a majority of the commercial catfish producers voting at the election vote against the levy of the assessment, the assessment shall not be levied as of the date ten (10) calendar days after the date of the election. The levy may be reapproved, in the same manner as the initial election and subject to the same vote requirements, at an election called by the board not earlier than twelve (12) months after the date of the previous election suspending the levy of the assessment.

(c)(1) The assessment imposed and levied by this section shall be collected by the Secretary of the Department of Finance and Administration from each seller of catfish feed, who shall add the assessment to the purchase price of catfish feed sold in this state to commercial catfish producers.

(2) Each seller of catfish feed, when remitting assessments collected to the secretary, may deduct not more than one percent (1%) of the gross amount of the assessments to cover the cost of compliance.

**History.** Acts 1999, No. 790, § 8; 2019, No. 910, § 3267.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (c)(1).

## 2-9-109. Assessment records.

(a)(1) Every person required to pay the assessment provided for in this chapter shall keep a complete and accurate record of all catfish feed handled by him or her.

(2) The records shall be in such form and contain other information as the Arkansas Catfish Promotion Board shall prescribe by rule.

(3) The records shall be preserved for a period of two (2) years and shall be offered for inspection at any time upon written demand by the Secretary of the Department of Finance and Administration or his or her authorized agent or representative.

(b)(1) At such times as the secretary may require, every person required to pay the assessment provided for in this chapter shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this chapter.

(2) The secretary has the power to cause any authorized agent or representative to enter upon the premises of any person required to pay the assessment provided for in this chapter and examine or cause to be examined by the agent any books, papers, and records which deal in any way with the payment of the assessment or enforcement of the provisions of this chapter.

**History.** Acts 1999, No. 790, § 10; 2019, No. 315, § 6; 2019, No. 910, §§ 3268, 3269.

**Amendments.** The 2019 amendment by No. 315 deleted “or regulation” following “rule” in (a)(2).

The 2019 amendment by No. 910 substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” in (a)(3); and substituted “secretary” for “director” in (b)(1) and (2).

## 2-9-110. Assessment refund.

(a) So long as the assessment on the sale of catfish feed continues to be levied as provided in this chapter, any catfish producer may request and receive a refund of such assessment, provided he or she makes a written application therefor with the Secretary of the Department of Finance and Administration within sixty (60) calendar days after the date of sale, supported by copies of sales slips from the seller of the catfish feed and a refund form approved by the Arkansas Catfish Promotion Board.

(b) The secretary shall create and approve a refund claim form.

**History.** Acts 1999, No. 790, § 11; 2019, No. 910, § 3270.

**Amendments.** The 2019 amendment substituted “Secretary of the Department

of Finance and Administration” for “Director of the Department of Finance and Administration” in (a); and substituted “secretary” for “director” in (b).

## 2-9-111. Penalty.

(a)(1) Any seller who fails to file a report, collect an assessment, or remit any assessment when due shall pay a penalty not to exceed five percent (5%) of the amount of the assessment that should have been collected or remitted, plus an additional penalty not to exceed one percent (1%) of the amount of the assessment that should have been collected or remitted for each month of delay, or fraction of a month, after the first month the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the Secretary of the Department of Finance and Administration and shall be disposed of in the same

manner as funds derived from the payment of an assessment as provided in this chapter.

(b) The secretary shall collect the penalties levied in this section, together with the delinquent assessment, by any or all of the following methods:

- (1) Voluntary payment; or
- (2) Legal proceedings instituted in a court of competent jurisdiction seeking any remedies available, including, but not limited to, injunctive relief to enjoin any seller owing the assessment or penalties from engaging in business as a seller of catfish feed until the amount of the assessment due and all penalties are paid.

(c) Any person required to pay the assessment provided for in this chapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation punishable by a fine not exceeding five hundred dollars (\$500).

**History.** Acts 1999, No. 790, § 3; 2005, No. 1994, § 5; 2019, No. 910, § 3271.

tor of the Department of Finance and Administration” in (a)(2); and substituted “secretary” for “director” in the introductory language of (b).

**Amendments.** The 2019 amendment substituted “Secretary of the Department of Finance and Administration” for “Direc-

CHAPTER 10

ARKANSAS MILK STABILIZATION BOARD

SUBCHAPTER.

1. ARKANSAS MILK STABILIZATION BOARD ACT.
2. DAIRY STABILIZATION GRANT ACT.

SUBCHAPTER 1 — ARKANSAS MILK STABILIZATION BOARD ACT

SECTION.

- 2-10-103. Arkansas Milk Stabilization Board.
- 2-10-104. Powers and duties of the Ar-

kansas Milk Stabilization Board.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.



**2-10-103. Arkansas Milk Stabilization Board.**

(a) There is created no later than July 1, 2007, the Arkansas Milk Stabilization Board, to be composed of five (5) members appointed by the Governor as follows:

(1) Two (2) members who are actively and principally engaged in dairy farming in this state;

(2) One (1) member who is an Arkansas consumer;

(3) One (1) member who is an Arkansas milk processor; and

(4) One (1) member who is an Arkansas retailer.

(b) Each member appointed to the board shall be appointed for a term of five (5) years except that the initial members of the board shall be appointed for terms that result in:

(1) One (1) member's term expiring after one (1) year;

(2) One (1) member's term expiring after two (2) years;

(3) One (1) member's term expiring after three (3) years;

(4) One (1) member's term expiring after four (4) years; and

(5) One (1) member's term expiring after five (5) years.

(c) Members of the board shall draw lots to determine the length of the initial term.

(d)(1) Not less than thirty (30) calendar days before the expiration of the terms of the members of the board under subdivisions (a)(1) and (a)(4) of this section, interested parties shall submit to the Governor the names of nominees for the positions to be filled, and the Governor shall appoint the new members from each list of nominees.

(2) If no lists are submitted, the appointments shall be at the discretion of the Governor.

(3) Each member selected for the board shall serve for a term of five (5) years except as provided in subsection (b) of this section and until his or her successor is selected as provided in this subsection.

(4) A member of the board may be removed by a majority vote of the remaining board members for:

(A) Conviction of a felony;

(B) Failing to attend three (3) consecutive meetings; or

(C) No longer meeting the qualifications for his or her initial appointment.

(e) Upon a vacancy of a member of the board, the Governor shall make a new appointment within thirty (30) days.

(f) Members of the board shall organize immediately after their appointment and shall elect a chair, a vice chair, and a secretary-treasurer from the membership of the board, whose duties shall be those customarily exercised by those officers or specifically designated by the board.

(g)(1) Meetings of the board shall be called by the chair or by four (4) members of the board.

(2) Four (4) members of the board shall constitute a quorum for the transaction of business of the board.

(h) The members of the board shall receive no salary or other compensation for their services except that they may receive expense

reimbursement in accordance with § 25-16-901 et seq. for attending meetings of the board.

(i) The Secretary of the Department of Agriculture shall assist the board when necessary by providing resources and guidance.

**History.** Acts 2007, No. 754, § 1; 2019, No. 910, § 11.

**Amendments.** The 2019 amendment, in (i), substituted “Department of Agricul-

ture” for “Arkansas Agriculture Department” and deleted “and the Deputy Director of the Arkansas Livestock and Poultry Commission” preceding “shall assist”.

## 2-10-104. Powers and duties of the Arkansas Milk Stabilization Board.

(a) The Arkansas Milk Stabilization Board shall:

(1) Administer this subchapter;

(2) Research other states to determine how those states support their dairy farmers;

(3) Investigate methods of milk production, dairy pricing, and support of the dairy industry;

(4) Create a plan to assist Arkansas dairy farmers that would be equitable to all parties in the state dairy industry and withstand legal challenges;

(5) [Repealed.]

(6) Provide a forty-five-day period for public comment on the proposed plan provided in subdivision (a)(5) of this section;

(7) Create the final plan for submission to the Legislative Council following the public comment period; and

(8) Promulgate rules the board considers necessary or desirable to implement the final plan determined in subdivision (a)(7) of this section.

(b) The board shall submit its final plan as determined under subdivision (a)(7) of this section and rules as determined under subdivision (a)(8) of this section to the Legislative Council for review no later than March 1, 2008.

(c)(1) Once reviewed by the Legislative Council, the Department of Agriculture shall implement the plan.

(2) The board shall monitor progress and success of the plan.

(d) The board shall have jurisdiction over milk and milk products marketed in the State of Arkansas.

**History.** Acts 2007, No. 754, § 1; 2019, No. 910, §§ 12, 13.

**Amendments.** The 2019 amendment

repealed (a)(5); and substituted “Department of Agriculture” for “Arkansas Agriculture Department” in (c)(1).

## SUBCHAPTER 2 — DAIRY STABILIZATION GRANT ACT

### SECTION.

2-10-203. Dairy Stabilization Grant.

2-10-204. Milk production and quality incentives.

### SECTION.

2-10-205. Rules.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

## 2-10-203. Dairy Stabilization Grant.

(a) The Dairy Stabilization Grant is created.

(b)(1)(A) If funds are available, the Secretary of the Department of Agriculture shall calculate monthly the difference between the average monthly blend price of milk received by Arkansas milk producers as estimated by the secretary and seventy percent (70%) of the average monthly cost of producing milk in Missouri and Tennessee as estimated by the United States Department of Agriculture.

(B) If the average monthly blend price of milk received by Arkansas milk producers is lower than seventy percent (70%) of the calculated average cost of producing milk in Missouri and Tennessee, the milk producer is eligible for a monthly Dairy Stabilization Grant in the amount of the difference, which will be paid quarterly. The secretary shall pay the milk producer by the fifteenth day of the month following the end of the quarter.

(2) The secretary shall not pay a milk producer more than five dollars (\$5.00) per hundred weight of milk per month under subdivision (b)(1) of this section.

(c) Grants received by a milk producer under this section shall not exceed an annual average of two dollars (\$2.00) per hundred weight of milk.

(d) Grants authorized by the secretary shall be made to the milk producer from moneys appropriated by the General Assembly for that purpose.

**History.** Acts 2009, No. 968, § 1; 2019, No. 910, § 14.

substituted "Department of Agriculture" for "Arkansas Agriculture Department" in (b)(1)(A).

**Amendments.** The 2019 amendment

## 2-10-204. Milk production and quality incentives.

(a) If funds are available, as an incentive to continue milk production and to improve milk quality, the Secretary of the Department of Agriculture may pay a milk producer the following incentive payments:





(A) Is directly or indirectly controlled by a first purchaser; or

(B) Directly or indirectly controls a first purchaser;

(2) “Agreement to sell” means an enforceable oral or written agreement by which a grain, soybean, or peanut owner, either directly or through a sales agent, agrees to sell grain, soybeans, or peanuts to a first purchaser;

(3) “Control” or “controlled by” means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person through ownership, by contract, or otherwise;

(4) “First purchaser” means the first person that purchases grain, soybeans, or peanuts, either directly or indirectly through a sales agent, under an agreement to sell;

(5) “Grain, soybean, or peanut owner” means a person owning an interest in grain, soybeans, or peanuts before the acquisition of the grain, soybeans, or peanuts by a first purchaser;

(6) “Owner’s lender” means a person that has a valid mortgage lien or security interest in a grain, soybean, or peanut owner’s grain, soybeans, or peanuts at the time the grain, soybeans, or peanuts are delivered to the first purchaser;

(7) “Owner’s lien” means a lien granted under this subchapter;

(8)(A) “Permitted lien” means the following liens or security interests:

(i) A mortgage lien or security interest granted by a first purchaser that:

(a) Secures payment under a written instrument of indebtedness signed by the first purchaser and accepted in writing by the payee before July 22, 2015; and

(b) Has a principal amount and a fixed maturity stated in the mortgage lien or security interest; and

(ii) A validly perfected and enforceable lien created by statute in relation to grain, soybeans, or peanuts purchased under an agreement to sell that secures payment of indebtedness incurred by the first purchaser before July 22, 2015.

(B) “Permitted lien” does not include a mortgage lien or security interest that:

(i) Secures payment under a written instrument of indebtedness that is modified, amended, or restated from or after July 22, 2015, by a modification, amendment, or restatement that increases the principal amount that is owed on July 22, 2015;

(ii) Secures payment under a written instrument of indebtedness that is modified, amended, or restated from or after July 22, 2015, by a modification, amendment, or restatement that extends the stated maturity of the written instrument of indebtedness that is in effect on July 22, 2015; or

(iii) Is not validly perfected with a first priority against the claims of all persons under applicable law other than a person holding a statutory or regulatory lien as to which first priority is granted by statute or rule;

(9) “Person” means an individual or business entity, including without limitation an executor, administrator, estate, agent, trust, trustee, institution, receiver, business trust, firm, corporation, partnership, limited liability company, cooperative, joint venture, governmental entity or agency, association, and any other legal entity;

(10) “Proceeds” means:

(A) A right or amount paid or to be paid in consideration of or as a consequence of the sale of grain, soybeans, or peanuts, including without limitation cash proceeds, accounts, chattel paper, instruments, and payment intangibles;

(B) A by-product from the processing of grain, soybeans, or peanuts; and

(C) A right or amount paid or to be paid in consideration of or as a consequence of the sale of a by-product from the processing of grain, soybeans, or peanuts;

(11) “Purchaser” means a person that:

(A) Is not an affiliate of a first purchaser; and

(B) Takes, receives, or purchases grain, soybeans, or peanuts from a first purchaser;

(12) “Sales agent” means a person that is authorized to sell grain, soybeans, or peanuts on behalf of or for the benefit of another person; and

(13) “Sales price” means the amount a first purchaser agrees to pay a grain, soybean, or peanut owner or a sales agent under an agreement to sell.

**History.** Acts 2015, No. 1082, § 1; substituted “rule” for “regulation” in 2019, No. 315, § 7. (8)(B)(iii).

**Amendments.** The 2019 amendment

## SUBCHAPTER 4 — ARKANSAS INDUSTRIAL HEMP ACT

### SECTION.

2-15-404. State Plant Board — Research program.

2-15-406. State Plant Board — Reports.

### SECTION.

2-15-410. Transportation of industrial hemp.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.



**2-15-404. State Plant Board — Research program.**

(a)(1) The State Plant Board may adopt rules to administer the industrial hemp research program and to license persons to grow industrial hemp under this subchapter.

(2) The board may include as part of its rules the establishment of industrial hemp testing criteria and protocols.

(b)(1) The board shall promote research and development concerning industrial hemp and commercial markets for Arkansas industrial hemp and hemp products.

(2) The board may work in conjunction with the Division of Agriculture of the University of Arkansas and the University of Arkansas Cooperative Extension Service regarding industrial hemp research programs.

(3)(A) The board may undertake research concerning industrial hemp production through the establishment and oversight of a ten-year industrial hemp research program.

(B) In conjunction with the Division of Agriculture of the University of Arkansas, the board may create a program consisting primarily of demonstration plots planted and cultivated in this state by growers licensed under this subchapter.

(C) The board may determine the location, and the total number and acreage, of each demonstration plot.

(D)(i) In conducting research under this subchapter, higher tetrahydrocannabinol concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of industrial hemp.

(ii) However, tetrahydrocannabinol levels shall not exceed three-tenths of one percent (0.3%).

(4) The board may seek permits or waivers from the United States Drug Enforcement Administration or the appropriate federal agency that are necessary for the advancement of the industrial hemp research program.

(5) In conjunction with the Division of Agriculture of the University of Arkansas, the board may:

(A) Oversee and analyze the growth of industrial hemp by selected and licensed growers for agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp that may be suitable for various commercial hemp products, including without limitation industrial hemp seed, paper, clothing, and oils;

(B) Conduct seed research on various types of industrial hemp that are best suited to be grown in Arkansas, including without limitation:

(i) Creation of Arkansas hybrid types of industrial hemp;

(ii) Industrial hemp seed availability; and

(iii) In-the-ground variety trials and seed production;

(C) Establish a program to recognize certain industrial hemp seed as being Arkansas heritage hemp seed;

(D) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the state;

(E) Report on the estimated value-added benefits, including environmental benefits, that Arkansas businesses could reap by having an industrial hemp market of Arkansas-grown industrial hemp varieties in the state;

(F) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;

(G) Research and promote Arkansas industrial hemp and hemp seed on the world market that can be grown on farms in the state; and

(H) Study the feasibility of attracting federal and private funding for the Arkansas industrial hemp research program.

(6) The board may:

(A) Coordinate with the Arkansas Energy Office of the Division of Environmental Quality to study the use of industrial hemp in new energy technologies, including without limitation:

(i) Evaluation of the use of industrial hemp to generate electricity, and to produce biofuels and other forms of energy resources;

(ii) Growth of industrial hemp on reclaimed mine sites;

(iii) Use of hemp seed oil in the production of fuels; and

(iv) Assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and

(B) Promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies that manufacture industrial hemp into hemp products to:

(i) Attract new businesses to the state;

(ii) Create a commercial market for industrial hemp;

(iii) Create new job opportunities for Arkansas residents; and

(iv) Diversify the agricultural economy of the state.

(7) The research activities under this subchapter shall not:

(A)(i) Subject the industrial hemp research program to criminal liability under the controlled substances laws of the state.

(ii) The exemption from criminal liability under subdivision (b)(7)(A)(i) of this section is a limited exemption that shall be strictly construed and that shall not apply to an activity of the industrial hemp research program that is not expressly permitted under this subchapter; or

(B) Amend or repeal by implication a provision of the Uniform Controlled Substances Act, § 5-64-101 et seq.

(8) The board shall notify the Division of Arkansas State Police and each local law enforcement agency with jurisdiction of the duration, size, and location of all industrial hemp demonstration plots.

(9) The board may cooperatively seek funds from both public and private sources to implement the industrial hemp research program created in this subchapter.



(10) By December 31, 2018, and annually thereafter, the board shall report on the status and progress of the industrial hemp research program to the Governor and to the Department of Agriculture.

(11) The board may establish and collect fees to administer the industrial hemp research program.

**History.** Acts 2017, No. 981, § 1; 2019, No. 140, § 1; 2019, No. 910, §§ 2412-2414.

**Amendments.** The 2019 amendment by No. 140 added (b)(11).

The 2019 amendment by No. 910 substituted "Division of Environmental Quality" for "Arkansas Department of Environ-

mental Quality" in the introductory language of (b)(6)(A); substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" in (b)(8); and substituted "Department of Agriculture" for "Arkansas Agriculture Department" in (b)(10).

## 2-15-406. State Plant Board — Reports.

The State Plant Board may report to the Department of Agriculture concerning industrial hemp policies and practices that may result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry, including without limitation:

- (1) Federal laws and regulatory constraints;
- (2) The economic and financial feasibility of an industrial hemp market in Arkansas;
- (3) Arkansas businesses that might use industrial hemp;
- (4) Examination of research on industrial hemp production and use;
- (5) The potential for globally marketing Arkansas industrial hemp;
- (6) A feasibility study of private funding for the Arkansas industrial hemp research program;
- (7) Enforcement concerns;
- (8) Statutory and regulatory schemes for growing of industrial hemp by private producers; and
- (9) Technical support and education about industrial hemp.

**History.** Acts 2017, No. 981, § 1; 2019, No. 910, § 17.

**Amendments.** The 2019 amendment substituted "Department of Agriculture"

for "Governor and to the Arkansas Agriculture Department" following "may report to the" in the introductory language.

## 2-15-410. Transportation of industrial hemp.

(a)(1) Only an industrial hemp grower licensee or his or her designees or agents may transport industrial hemp off the premises of the licensee.

(2) When transporting industrial hemp off the premises of an industrial hemp grower licensee, the licensee or a designee or agent of the licensee shall carry the licensing documents from the State Plant Board, evidencing that the industrial hemp:

- (A) Was grown by a licensee; and
- (B) Is from certified seed.



- (b) Industrial hemp that is found in this state at any location off the premises of an industrial hemp grower licensee is contraband and subject to seizure by any law enforcement officer, unless the person in possession of the industrial hemp has in his or her possession either:
- (1) The proper licensing documents under this subchapter; or
  - (2) A bill of lading or other proper documentation demonstrating that the industrial hemp was legally imported or is otherwise legally present in this state under applicable state and federal laws relating to industrial hemp.

**History.** Acts 2017, No. 981, § 1; Acts 2019, No. 378, § 1. in (b)(2), deleted the comma following “A bill of lading” and deleted the comma following “documentation”.

**Amendments.** The 2019 amendment,

CHAPTER 16

PLANT DISEASE AND PEST CONTROL

SUBCHAPTER.

- 2. PLANT ACT OF 1917.
- 3. EMERGENCY PLANT ACT OF 1921.
- 4. PESTICIDE CONTROL.
- 6. ARKANSAS BOLL WEEVIL SUPPRESSION ERADICATION ACT.
- 7. ARKANSAS FIRE ANT ADVISORY BOARD.

SUBCHAPTER 2 — PLANT ACT OF 1917

SECTION.

- 2-16-203. Penalty.
- 2-16-206. State Plant Board.
- 2-16-207. Powers and duties of board.

SECTION.

- 2-16-208. Director of board.
- 2-16-209. Transportation, etc., of insect pests, etc., generally.

**Effective Dates.** Acts 2019, No. 423, § 2: Mar. 11, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that delay in implementation of this act would hinder the State Plant Board from enforcing egregious violations during the 2019 growing season, which could have a detrimental impact on the state’s agricultural economy. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto”.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the

preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

## **2-16-203. Penalty.**

(a) Any person who shall violate any provision or requirement of this subchapter or the rules made or of any notice given under this subchapter or who shall forge, counterfeit, deface, destroy, or wrongfully use any certificate provided for in this subchapter or in the rules made under this subchapter shall be guilty of a violation, and upon conviction he or she shall be punished by a fine of not more than one hundred dollars (\$100).

(b)(1)(A)(i) In a lawful proceeding respecting licensing, as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., in addition to or in lieu of any other lawful disciplinary action, the State Plant Board may assess a civil penalty of not more than one thousand dollars (\$1,000) for each violation of any statute, rule, or order enforceable by the board.

(ii)(a) The board may assess a civil penalty greater than one thousand dollars (\$1,000) but not more than twenty-five thousand dollars (\$25,000) only if the board finds that a violation under this subdivision (b)(1)(A) is egregious.

(b) A violation is egregious only if the application of one (1) of the following herbicides is used intentionally in violation of the federal labeling requirements or a state law or rule regarding its application:

(1) Dicamba;

(2) An auxin-containing herbicide; or

(3) A new herbicide technology released after August 1, 2017.

(B) In no case shall a single application or drift incident by a pesticide applicator be considered multiple violations based on the number of complaints.

(C) In no case shall the failure to meet minimum treating standards, except those that require a termiticide application, be considered a violation and subject to a civil penalty.

(2)(A) The board shall by rule establish a schedule designating the minimum and maximum civil penalty that may be assessed under this section for violation of each statute, rule, or order over which it has regulatory control.

(B) The board may promulgate any other rule necessary to carry out the intent of this section.

(3) In the event of nonpayment of any civil penalty lawfully assessed under subdivision (b)(1) of this section, the civil penalty shall be recoverable in the name of the state by the Attorney General in Pulaski County Circuit Court or in the circuit court of the county in which the violation occurred.

(4)(A) All sums paid or recovered under this section shall be deposited into the State Treasury.

(B)(i) Sums collected under special revenue programs shall be deposited into the Plant Board Fund.

(ii) Sums collected under general services programs shall be deposited into the Miscellaneous Agencies Fund Account.

(5) All rules promulgated under this section shall be reviewed by the House Committee on Agriculture, Forestry, and Economic Development and the Senate Committee on Agriculture, Forestry, and Economic Development or subcommittees of the House Committee on Agriculture, Forestry, and Economic Development and the Senate Committee on Agriculture, Forestry, and Economic Development.

(c) Moneys collected through a civil penalty assessed by the board shall be distributed as follows:

(1) For amounts up to one thousand dollars (\$1,000), as currently used, including funding for the Arkansas State Plant Board Scholarship program; and

(2) For amounts more than one thousand dollars (\$1,000):

(A) The first one thousand dollars (\$1,000) of the assessed penalty for scholarships through the Arkansas State Plant Board Scholarship program; and

(B) The remainder divided as follows:

(i) Sixty percent (60%) for scholarships through the Arkansas State Plant Board Scholarship program; and

(ii) Forty percent (40%) deposited into the University of Arkansas Fund to be used by the University of Arkansas Cooperative Extension Service.

**History.** Acts 1917, No. 414, § 15; C. & M. Dig., § 8038; Pope's Dig., § 12346; A.S.A. 1947, § 77-114; Acts 1995, No. 141, § 1; 1995, No. 167, § 1; 1997, No. 317, § 1; 2003, No. 1473, § 1; 2005, No. 1994, § 7; 2017, No. 778, §§ 1, 2; 2019, No. 315, § 8; 2019, No. 423, § 1.

**Amendments.** The 2019 amendment by No. 315 substituted "rule" for "regulation" in (b)(2)(B).

The 2019 amendment by No. 423 substituted "the application of one (1) of the following herbicides is used intentionally in violation of the federal labeling requirements or a state law or rule regarding its application" for "significant off-target crop damage occurred as a result of the application of" in (b)(1)(A)(ii)(b); added the (b)(1)(A)(ii)(b)(1) through (3) designations; and made stylistic changes.

## 2-16-206. State Plant Board.

(a) There is created and established a State Plant Board, composed of eighteen (18) members, as follows:

(1) Two (2) nonvoting members designated by the Vice President for Agriculture of the University of Arkansas or his or her designee;

(2) A practical cotton grower, actively engaged in the business, to be appointed by the Governor;

(3) One (1) member to represent the Arkansas Plant Food Association, actively engaged in the business, to be appointed by the Governor;

(4) A practical rice grower, actively engaged in the business, to be appointed by the Governor;



(5) A practical horticulturist, actively engaged in the business, to be elected by the Arkansas State Horticultural Society;

(6) A nurseryman, actively engaged in the business, to be elected by the Arkansas Green Industry Association;

(7) A practical seed grower, actively engaged in the business, to be elected by the Arkansas Seed Growers Association;

(8) A pest control operator, actively engaged in the business, to be elected by the Arkansas Pest Management Association, Inc.;

(9) A seed dealer, actively engaged in the business, to be elected by the Arkansas Seed Dealers' Association;

(10) One (1) member representing the Arkansas Bureau of Standards to be appointed by the Arkansas Oil Marketers Association;

(11) A pesticide manufacturer, actively engaged in the business, to be elected by the Arkansas Crop Protection Association Inc.;

(12) One (1) member to represent the Arkansas Agricultural Aviation Association, to be elected by the Arkansas Agricultural Aviation Association;

(13) One (1) member to represent the Arkansas Forestry Association, to be elected by the Arkansas Forestry Association;

(14) Two (2) farmers actively and principally engaged in farming in this state, appointed by the Governor;

(15) One (1) representative of the livestock industry, actively engaged in the business, to be appointed by the Governor; and

(16) One (1) representative of the forage industry, actively engaged in the business, to be appointed by the Governor.

(b) Board members shall serve a term of two (2) years or until such time as a successor has been elected or appointed as herein provided. A majority of the members of the board shall constitute a quorum for all purposes.

(c) The chair, vice chair, and secretary-treasurer shall be elected by the members of the board. The board shall designate some official or employee of the board to serve as disbursing officer of the board.

(d) Meetings of the board shall be called by the chair or by four (4) members of the board.

(e) The members shall serve without compensation but may receive expense reimbursements in accordance with § 25-16-901 et seq. and shall be authorized to provide a suitable office where the meetings of the board may be held and its records kept.

(f) If necessary to provide suitable space for its offices, laboratories, and other needs, the board may buy property, build buildings, or lease property for a period covering not more than fifteen (15) years from the date of lease.

**History.** Acts 1917, No. 414, § 3; C. & M. Dig., § 8026; Acts 1929, No. 197, § 1; 1931, No. 73, § 2; 1935, No. 97, § 1; Pope's Dig., § 12335; Acts 1953, No. 408, § 1; 1955, No. 239, § 1; 1961, No. 144, § 1; 1967, No. 77, § 1; 1971, No. 276, § 1; 1975, No. 409, § 1; A.S.A. 1947, § 77-103; Acts 1997, No. 250, § 2; 2013, No. 591, §§ 1, 2; 2019, No. 1056, § 1.

**Amendments.** The 2019 amendment deleted former (2) and redesignated the remaining subdivisions accordingly; re-

wrote (1); substituted "Plant Food Association" for "fertilizer and cotton oil mills" in (3); and rewrote (10).

## 2-16-207. Powers and duties of board.

(a)(1) The State Plant Board shall keep itself informed as to the varieties of insect pests, diseases, and noxious weeds and the origin, locality, nature, and appearance thereof; the manner in which they are disseminated; and the approved methods of treatment and eradication.

(2) Every such insect pest, disease, and noxious weed, and every plant and plant product infested or infected is declared to be a public nuisance.

(b)(1) The board in its rules made under this subchapter shall list the insect pests, diseases, and noxious weeds, of which it shall find that the introduction into or the dissemination within the state should be prevented in order to safeguard the plants and plant products of this state, and the list shall include the plants and plant products or other substances on or in which these pests may be carried.

(2) Every person who has knowledge of the presence of any insect pest, disease, or noxious weed listed as required in this section in the rules made under this subchapter, in or upon any place, shall immediately report it to the board or inspectors thereof, giving such detailed information relative thereto as he or she may have.

(3) Every person who deals in or engages in the sale of plants or plant products shall furnish to the board or its inspectors, when requested, a statement of the names and addresses of the persons from whom and the localities where he or she purchased or obtained the plant and plant products.

(c)(1) The board shall make rules for carrying out the provisions and requirements of this subchapter, including rules under which the inspectors and other employees of the Department of Agriculture shall:

(A) Inspect places, plants and plant products, and things and substances used or connected herewith;

(B) Investigate, control, eradicate, and prevent the dissemination of insect pests, diseases, and noxious weeds; and

(C) Supervise or cause the treatment, cutting, and destruction of infected or infested plants and plant products.

(2) For the purpose of preventing fraud and misrepresentation, the board shall make rules governing the transportation, distribution, or sale of sorghum seed, hybrid corn seed, and other seeds intended for planting.

(d) For the purpose of carrying out the provisions and requirements of this subchapter, of the rules made, and notices given pursuant thereto, the board and the inspectors and employees of the department shall have power to enter into or upon any place and to open any bundle, package, or other container of plants or plant products.

**History.** Acts 1917, No. 414, §§ 5, 6, 13; 12338, 12344; Acts 1939, No. 40, § 1; C. & M. Dig., §§ 8028, 8029, 8036; Acts 1943, No. 44, § 1; A.S.A. 1947, §§ 77-105, 1937, No. 203, § 1; Pope's Dig., §§ 12337, 77-106, 77-112; Acts 2019, No. 910, § 18.



**Amendments.** The 2019 amendment inserted “of the Department of Agriculture” in the introductory language of (c)(1) and in (d); and made stylistic changes.

## **2-16-208. Director of board.**

(a)(1) For the purpose of carrying out the provisions of this subchapter, the State Plant Board shall employ, prescribe the duties of, and fix the compensation for a Director of the State Plant Board.

(2)(A) With the approval of the State Plant Board, the director may employ such inspectors or other employees as may be required and may incur such expenses as may be necessary within the limits of the appropriation made by law.

(B) The State Plant Board shall be subject to all executive orders by the Governor instituting a hiring freeze or restriction applicable to all cabinet-level departments.

(b)(1) The director shall be appointed by the State Plant Board with the approval of the Governor and shall serve at the pleasure of the Governor.

(2)(A) The director shall report to the Secretary of the Department of Agriculture.

(B) The secretary shall serve as the liaison between the State Plant Board and the Governor.

(c)(1) The director shall furnish a bond of five thousand dollars (\$5,000) with sufficient sureties approved by the State Plant Board for the faithful performance of his or her duties of this subchapter and the rules of the State Plant Board.

(2) Any person suffering damage by reason of the acts or omissions of the chief inspector or his or her duly authorized deputies or employees may bring action on the bond for damages.

(3) The State Plant Board may require to indemnify the director that similar bonds shall be furnished by deputies, inspectors, or employees.

(d) The State Plant Board shall cooperate with other departments, boards, and officers of this state and of the United States as far as possible.

(e) The secretary shall not be appointed to the position of director.

**History.** Acts 1917, No. 414, § 4; C. & M. Dig., § 8027; Acts 1921, No. 664, § 1; Pope’s Dig., § 12336; Acts 1953, No. 360, § 1; 1983, No. 691, § 11; A.S.A. 1947, §§ 77-103.2, 77-104; Acts 2019, No. 910, § 19.

**Amendments.** The 2019 amendment substituted “State Plant Board” for “board” throughout the section; redesignated (a) as (a)(1) and (a)(2)(A), and added (a)(2)(B); and redesignated (b) as (b)(1), and added (b)(2); and added (e).

## **2-16-209. Transportation, etc., of insect pests, etc., generally.**

(a) Transportation through or into or transportation, distribution, or sale within the state of any insect pest, plant disease, noxious weed, or any plant, plant product, or other substance, listed in the rules of the State Plant Board as required under § 2-16-207, or of sorghum seed,



hybrid corn seed, or other planting seeds for the transportation, distribution, or sale of which the board has made rules under this subchapter is prohibited except under such safeguards as may be provided for in the rules of the board.

(b) To cover expenses incident to inspection or treatment or incident to the issuance of such permits or certificates as may be required by the board's rules made under this subchapter, the board may require the payment of reasonable fees which shall be deposited in the manner prescribed by § 2-16-210 to be used in carrying out the provisions of this subchapter.

(c) The board is empowered to require that a shipper who ships plants from another state into Arkansas must meet any and all requirements which the shipper's state would make of an Arkansas shipper who ships plants into that state.

(d) Inspectors carrying out the provisions of this subchapter on issuance of a written notice may cause to be held or to be sent out of the state or to be destroyed any plant, plant product, or other substance which has been brought into or is being transported within the state in violation of any state or federal law, rule, or regulation. They may stop and detain for inspection any person, car, or other carrier.

**History.** Acts 1917, No. 414, § 11; C. & M. Dig., § 8034; Acts 1929, No. 197, § 3; 1937, No. 203, § 2; Pope's Dig., § 12342; Acts 1939, No. 40, § 2; 1943, No. 44, § 2; A.S.A. 1947, § 77-110; Acts 2019, No. 910, § 20.

**Amendments.** The 2019 amendment, in the first sentence of (d), substituted "carrying out the provisions of this subchapter" for "of the board" and inserted "rule".

### SUBCHAPTER 3 — EMERGENCY PLANT ACT OF 1921

#### SECTION.

2-16-306. Enforcement.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

2-16-306. Enforcement.

(a)(1) The provisions of this subchapter and the rules promulgated hereunder shall be carried out by the Director of the State Plant Board, who shall serve without extra compensation.

(2) The director may, with the approval of the State Plant Board, employ such inspectors or other employees as may be required and may incur such expenses as may be necessary, within the limits of the appropriation made by law or declared by the Governor.

(b) For the purposes of carrying out the requirements of this subchapter, and the rules made and notices given pursuant thereto, the inspectors and employees of the Department of Agriculture shall have the right to enter into or upon any place and for purpose of inspection to open any bundle, package, or other container of plants, plant products, articles, or substances.

(c)(1) In the enforcement of this subchapter and of the rules made pursuant thereto, the board may summon witnesses; require the production of any books, papers, or documents it deems material; administer oaths; and hear witnesses.

(2) It shall be the duty of each sheriff in the state to serve a summons when requested by the board.

**History.** Acts 1921, No. 519, §§ 3, 7, 9; Pope’s Dig., §§ 12359, 12363, 12365; A.S.A. 1947, §§ 77-119, 77-123, 77-125; Acts 2019, No. 910, §§ 21, 22.

substituted “inspectors and employees of the Department of Agriculture” for “board and its inspectors and employees” in (b); and substituted “State Plant Board” for “board” in (c)(1).

**Amendments.** The 2019 amendment

SUBCHAPTER 4 — PESTICIDE CONTROL

SECTION.

- 2-16-403. Definitions.
- 2-16-404. Penalties.

SECTION.

- 2-16-405. Administration.
- 2-16-407. Pesticide registration required.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

2-16-403. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant;

(2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;

(3) "Animal" means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish;

(4) "Beneficial insects" means those insects which during their life cycle are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial;

(5) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;

(6) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;

(7) "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man, and other than bacteria, virus, or other microorganism on or in living man or other living animals; but not including equipment used for the application of pesticides when sold separately from the sale of pesticides;

(8) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and having so received, deliver or offer to deliver, pesticides in this state;

(9) "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these;

(10) [Repealed.]

(11) [Repealed.]

(12) "Fungus" means any non-chlorophyll-bearing thallophytes, that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(13) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under the authority of Section 25(c)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136w(c)(2), or by the State Plant Board under § 2-16-406(a)(2);

(14) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings under § 2-16-408 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the United States Secretary of the Interior under P.L. 91-135;



(15) "Inert ingredient" means an ingredient which is not an active ingredient;

(16) "Ingredient statement" means:

(A) Statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide; and

(B) When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water-soluble arsenic, each calculated as elemental arsenic. In the case of a spray adjuvant, the ingredient statement need contain only the names of the functioning agents and the total percentage of the constituents ineffective as spray adjuvants;

(17) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, for example, beetles, bugs, bees, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, for example, spiders, mites, ticks, centipedes, and wood lice;

(18) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or any of its containers or wrappers;

(19) "Labeling" means the label and all other written, printed, or graphic matter:

(A) Accompanying the pesticide or device at any time; or

(B) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the United States Environmental Protection Agency; the United States Department of Agriculture, the United States Department of the Interior, and the United States Department of Health and Human Services; state experiment stations; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides;

(20) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle and inhabiting soil, water, plants, or plant parts; they may also be called nemas or eelworms;

(21) "Person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not;

(22) "Pest" means:

(A) Any insect, rodent, nematode, fungus, weed; or

(B) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism except viruses, bacteria, or other microorganisms on or in living man or other living animals which the United States Environmental Protection Agency declares to be a pest under Section 25(c)(1) of the Federal Insecticide,

Fungicide, and Rodenticide Act, 7 U.S.C. § 136w(c)(1), or which the board declares to be a pest under § 2-16-406(a)(1);

(23) “Pesticide” means:

(A) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pests;

(B) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and

(C) Any substance or mixture of substances intended to be used as a spray adjuvant;

(24) “Plant regulator” means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce thereof. The term shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments;

(25) “Protect health and environment” means protection against any unreasonable adverse effects on the environment;

(26) “Registrant” means a person who has registered any pesticide under the provisions of this subchapter;

(27) “Restricted-use pesticide” means any pesticide or pesticide use classified for restricted use by the Administrator of the United States Environmental Protection Agency;

(28) “Spray adjuvant” means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the pesticide with which it is to be used;

(29) “State-restricted pesticide” means any pesticide or pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the board determines, subsequent to a hearing, requires additional restrictions for that pesticide or use to prevent unreasonable adverse effects on the environment, including humans, lands, beneficial insects, animals, crops, and wildlife, other than pests;

(30) “Unreasonable adverse effects on the environment” means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;

(31) “Weed” means any plant which grows where not wanted; and

(32) “Wildlife” means all living things that are neither human, domesticated, nor, as defined in this subchapter, pests. “Wildlife” shall include, but not be limited to, mammals, birds, and aquatic life.

**History.** Acts 1975, No. 410, § 4; A.S.A. 1947, § 77-230; Acts 2019, No. 378, § 2.

**Amendments.** The 2019 amendment repealed (10) and (11).

**2-16-404. Penalties.**

(a) Any person who violates any provision of this subchapter or a rule adopted under this subchapter shall be guilty of a violation and upon conviction shall be punished for the first offense by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and for the second and any additional offense a fine of not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000).

(b) Any offense committed more than three (3) years after a previous conviction shall be considered as a first offense.

**History.** Acts 1975, No. 410, § 18; A.S.A. 1947, § 77-244; Acts 2005, No. 1994, § 8; 2019, No. 315, § 9. **Amendments.** The 2019 amendment substituted “rule” for “regulation” in (a).

**2-16-405. Administration.**

(a) This subchapter shall be administered by the State Plant Board.

(b) The administrative functions vested in the board by this subchapter shall be considered to be delegated to the employees of the Department of Agriculture or the department’s authorized representatives on behalf of the board.

**History.** Acts 1975, No. 410, §§ 2, 20; A.S.A. 1947, §§ 77-228, 77-246; Acts 2019, No. 910, § 23. **Amendments.** The 2019 amendment rewrote (b).

**2-16-407. Pesticide registration required.**

(a) Each pesticide must have been accepted for registration by the State Plant Board, and the registration must be in force at the time it is sold, offered for sale, or distributed in this state. Registration is not required if a pesticide is shipped from one (1) plant or warehouse to another plant or warehouse operated by the same person and used solely at the plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of this subchapter or if the pesticide is distributed under the provisions of an experimental use permit issued under § 2-16-409 or an experimental use permit issued by the United States Environmental Protection Agency.

(b) The applicant for registration shall file a statement with the board which shall include:

(1) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant’s;

(2) The name of the pesticide;

(3) Other necessary information required for completion of the board’s application for registration form; and

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use



and the use classification as provided in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.

(c) The board, when it deems it necessary in the administration of this subchapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.

(d) The board may require a full description of the tests made and the results upon which the claims are based on any pesticide not registered under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136a, or on any pesticide on which restrictions are being considered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the pesticide was registered or last reregistered.

(e) The board may prescribe other necessary information by rule.

(f) The applicant desiring to register a pesticide shall pay an annual registration fee as prescribed in the rules of the board for each pesticide registered by the applicant. The annual registration fee shall be no less than sixty dollars (\$60.00) for each product registered. All registrations shall expire December 31 each year.

(g) Any registration approved by the board and in effect on December 31 for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the board notifies the applicant that the registration has been approved or denied, in accordance with the provisions of § 2-16-408. Forms for reregistration shall be mailed to registrants at least thirty (30) days before the due date.

(h) Provided the board is certified by the Administrator of the United States Environmental Protection Agency to register pesticides to meet special local needs under Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136v(c), the board shall require information set forth under subsections (b)-(e) of this section and shall register a pesticide if it determines that:

(1) The pesticide's composition is such as to warrant the proposed claims for it;

(2) The pesticide's labeling and other material required to be submitted comply with the requirements of this subchapter;

(3) The pesticide will perform its intended function without unreasonable adverse effects on the environment;

(4) When used in accordance with widespread and commonly recognized practice, the pesticide will not generally cause unreasonable adverse effects on the environment; and

(5) The classification for general or restricted use is in conformity with Section 3(d) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136a(d).

(i) The board shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where two (2) pesticides meet the requirements of this section, one (1) should not be registered in preference to the other.

**History.** Acts 1975, No. 410, § 6; A.S.A. 1947, § 77-232; Acts 1993, No. 783, § 7; 2019, No. 315, § 10. substituted “rule” for “regulation” in (e) and “rules” for “regulations” in the first sentence of (f).

**Amendments.** The 2019 amendment

## SUBCHAPTER 6 — ARKANSAS BOLL WEEVIL SUPPRESSION ERADICATION ACT

### SECTION.

2-16-610. Designation of eradication zones — Prohibition of planting of cotton — Par-

ticipation in suppression eradication program — Penalties.

### 2-16-610. Designation of eradication zones — Prohibition of planting of cotton — Participation in suppression eradication program — Penalties.

(a) The State Plant Board may designate by rule one (1) or more areas of this state as eradication zones where boll weevil eradication programs will be undertaken.

(b)(1) The board may promulgate reasonable rules regarding areas where cotton cannot be planted within an eradication zone when there is reason to believe it will jeopardize the success of the program or present a hazard to public health or safety.

(2) The board may issue rules prohibiting the planting of noncommercial cotton in such eradication zones, and requiring that all growers of commercial cotton in the eradication zones participate in a program of boll weevil eradication including cost sharing as prescribed in the rules.

(c) Notice of the prohibition and requirement shall be given by publication for one (1) day each week for three (3) successive weeks in a newspaper having general circulation in the affected area.

(d)(1) The board may set by rule a reasonable schedule of penalty fees to be assessed when growers in designated eradication zones do not meet the requirements of rules issued by the board with respect to reporting of acreage and participation in cost sharing as prescribed by rule.

(2) The penalty fees shall not exceed a charge of twenty-five dollars (\$25.00) per acre per year. Any such penalty is in addition to any assessments otherwise due, which assessments shall also remain payable.

(e)(1) When a grower fails to meet the requirements of rules promulgated by the board, the board in eradication zones may destroy cotton not in compliance with such rules.

(2) Cost incurred by the board shall be assessed against the grower.

**History.** Acts 1991, No. 710, § 8; 1997, No. 330, §§ 3, 4; 2019, No. 315, §§ 11, 12. substituted “rule” for “regulation” in (a) and twice in (d)(1).

**Amendments.** The 2019 amendment

## SUBCHAPTER 7 — ARKANSAS FIRE ANT ADVISORY BOARD

### SECTION.

2-16-702. Members.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

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### 2-16-702. Members.

(a) The Arkansas Fire Ant Advisory Board shall be composed of the Vice President for Agriculture of the University of Arkansas, the head of the Department of Entomology at the University of Arkansas at Fayetteville or his or her representative, the Secretary of the Department of Agriculture or his or her representative, and the following to be appointed from an ant-infested area by the Chair of the Arkansas Fire Ant Advisory Board:

- (1) A representative of an Arkansas environmental interest group;
- (2) A county extension agent or a member of the general public;
- (3) A representative of the farm or ranch industry;
- (4) A representative of the horticultural or nursery industry; and
- (5) A representative of the Arkansas Pest Control Association.

(b)(1) Members of the board appointed by the chair shall be appointed for four-year terms.

(2) Persons appointed to fill vacancies shall serve for the remainder of the unexpired term.

(c) Members of the board shall serve without compensation. Board members may receive expense reimbursement in accordance with § 25-16-901 et seq.

**History.** Acts 1993, No. 268, §§ 4-6; 1997, No. 250, § 4; 1999, No. 1119, § 1; 2019, No. 910, § 24.

**Amendments.** The 2019 amendment, in the introductory language of (a), substituted “Vice President for Agriculture of the University of Arkansas” for “Vice

President for Agriculture of the University of Arkansas System”, “Secretary of the Department of Agriculture” for “Director of the State Plant Board”, and “Chair of the Arkansas Fire Ant Advisory Board” for “chair”.



## CHAPTER 18

### SEEDS

#### SECTION.

2-18-105. Fees.

#### 2-18-105. Fees.

(a) To cover costs of inspection and certification, the State Plant Board shall require reasonable fees of all applicants in advance. These fees shall be deposited into a separate fund and shall be used in carrying out the purposes of this chapter.

(b)(1) To cover costs of promotion and advertising of certified seed, the board after a public hearing shall establish by rule promotion and advertising fees which shall be collected in advance. The fees shall be assessed upon the acreage grown for certified agricultural seed production or upon the number of certified tags and labels sold for production of certified seed from the acreage.

(2) Those fees collected for seed promotion and advertising shall be remitted by the board to the Arkansas Seed Dealers' Association and the Arkansas Seed Growers Association, or their successors, which shall establish and administer their own promotion and advertising programs.

(3) Before collecting the fees under this subsection or increasing those fees hereafter, the board shall seek the advice of the House Committee on Agriculture, Forestry, and Economic Development and the Senate Committee on Agriculture, Forestry, and Economic Development.

**History.** Acts 1931, No. 73, § 5; Pope's Dig., § 12352; A.S.A. 1947, § 77-318; Acts 1991, No. 955, § 1; 1997, No. 317, § 3; 2019, No. 315, § 13.

**Amendments.** The 2019 amendment substituted "rule" for "regulation" in the first sentence of (b)(1).

## CHAPTER 19

### FERTILIZERS, LIMING MATERIALS, AND SOIL AMENDMENT

#### SUBCHAPTER.

2. FERTILIZERS.

3. LIMING MATERIALS.

4. SOIL AMENDMENT.

5. NATURAL ORGANIC FERTILIZERS.

**SUBCHAPTER 2 — FERTILIZERS**

## SECTION.

2-19-201. Penalty.

2-19-202. Registration required for fertilizer brands and materials

— Licensing required for fertilizer blending and storage facilities — Definition.

**2-19-201. Penalty.**

(a) Any person selling or offering for sale any fertilizer or fertilizer material in violation of a provision of this subchapter, of a rule made under this subchapter, or of a notice issued under the authority of this subchapter shall be guilty of a violation.

(b) Upon conviction, an offender shall be fined in any sum not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

**History.** Acts 1951, No. 106, § 10; A.S.A. 1947, § 77-714; Acts 2005, No. 1994, § 11; 2019, No. 315, § 14. **Amendments.** The 2019 amendment substituted “rule” for “regulation” in (a).

**2-19-202. Registration required for fertilizer brands and materials — Licensing required for fertilizer blending and storage facilities — Definition.**

(a)(1) All manufacturers, jobbers, and manipulators of commercial fertilizers and of fertilizer materials to be used in the manufacture of fertilizer, who may desire to sell or offer for sale in Arkansas fertilizer and fertilizer materials, shall first file for registration with the State Plant Board, upon forms furnished by the board. The forms shall include the name of the brand of each fertilizer, fertilizer materials, or chemicals which they may desire to sell in the state, either by themselves or their agents, together with the names and addresses of the manufacturers or manipulators, and such other information as may be required by the board in its rules.

(2) A registrant shall not be required to register each grade of fertilizer that is formulated but shall report the mixed formulations on a monthly basis as required by § 2-19-209.

(3) All registrations must be approved by the board or its authorized agent before being effective.

(4) Registrations may be cancelled by the board for repeated flagrant violations of this subchapter, after notice and a hearing.

(5)(A) Each commercial fertilizer registrant shall report the guaranteed analysis by net weight of each registered fertilizer brand and the name and address of the registrant.

(B) Except for specialty fertilizers as defined in subdivision (d)(2) of this section, no guaranteed analysis of complete fertilizer shall be allowed indicating fractional units of primary plant food.

(C) Raw materials may be registered under a guarantee of the actual plant food content.

(D) In the case of bone meal, the phosphoric acid content shall be stated as a total, and its actual nitrogen content shall be stated.

(E) In the case of rock phosphate, both the total and available phosphoric acid content shall be stated.

(b)(1) All manufacturers, jobbers, blenders, and manipulators of commercial fertilizers and of fertilizer materials to be used in the manufacture of fertilizer, who may desire to sell or offer for sale in Arkansas fertilizer or fertilizer materials, shall first obtain a facility license from the board for each fertilizer blending or bulk storage facility which they operate.

(2) After notice and hearing, the board shall, by rules, promulgate the standards and criteria which it determines are necessary to license fertilizer blending or bulk storage facilities.

(c)(1)(A) The board may, under its rules, set and collect reasonable fertilizer brand registration and facility licensing fees.

(B) The fees shall be deposited into the Plant Board Fund of the State Treasury.

(2) All registrations shall expire on June 30 of each year.

(d) Any commercial fertilizer sold must contain a minimum of twenty (20) units of primary plant food, except for the following exemptions for special agricultural crop fertilizer formulations and for specialty fertilizers:

(1)(A) Commercial fertilizers which are needed in special cases for special agricultural crop uses shall be permitted to be sold in less than the combined twenty-unit minimum of primary plant food elements.

(B)(i) The special agricultural crop-use fertilizers with less than the twenty-unit minimum shall be permitted for sale only after the fertilizer grade is registered with the board.

(ii) In order to register the fertilizer grade, the applicant shall submit a written justification which shall show the need for such special fertilizer grade and shall include the fertilizer materials to be used in the special agricultural crop fertilizer formulation.

(iii) The board or its designee shall evaluate the formulation based on criteria established by rules of the board; and

(2)(A) A "specialty fertilizer" is any fertilizer distributed primarily for nonfarm use, such as for home gardens, lawns, shrubs, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.

(B) "Specialty fertilizer" includes a fertilizer used for research or experimental purposes.

**History.** Acts 1951, No. 106, § 1; 1957, No. 356, § 1; 1981, No. 398, § 1; A.S.A. 1947, § 77-701; Acts 1991, No. 189, § 1; 1993, No. 352, § 1; 1993, No. 373, § 1; 2019, No. 378, § 3.

**Amendments.** The 2019 amendment added the (d)(1)(A) and (d)(1)(B) designations; redesignated (d)(2) as (d)(2)(A) and (d)(2)(B); and made stylistic changes.



### SUBCHAPTER 3 — LIMING MATERIALS

#### SECTION.

2-19-302. Penalty.

#### 2-19-302. Penalty.

Any person who shall violate any provision of this subchapter or any rule adopted under this subchapter shall upon conviction be guilty of a violation and fined not less than one hundred dollars (\$100) for the first offense and not less than three hundred dollars (\$300) for every subsequent offense.

**History.** Acts 1969, No. 353, § 8; A.S.A. 1947, § 77-1908; Acts 2005, No. 1994, § 12; 2019, No. 315, § 15. **Amendments.** The 2019 amendment substituted “rule” for “regulation”.

### SUBCHAPTER 4 — SOIL AMENDMENT

#### SECTION.

2-19-402. Definitions.

2-19-407. Labeling requirements and approval of ingredients.

#### SECTION.

2-19-413. Injunctions.

#### 2-19-402. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) “Active ingredient” means the ingredient or ingredients which are claimed to have beneficial effects on soil or crops growing on soils;

(2) “Adulterated” means and shall apply to any soil amendment if:

(A) It contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plants, animals, or aquatic life when applied in accordance with the directions for use shown on the label; or if adequate warning statements and directions for use which may be necessary to protect plants, animals, or aquatic life are not shown on the label;

(B) Its composition falls below that which it is purported to possess by its labeling; or

(C) It contains noxious weed seed, harmful insects, or harmful disease organisms;

(3) “Board” means the State Plant Board;

(4) “Bulk” means in nonpackaged form;

(5) “Distribute” means to import, consign, offer for sale, sell, barter, or to otherwise supply soil amendments to any person in this state;

(6) “Distributor” means any person who imports, consigns, sells, offers for sale, barter, or otherwise supplies soil amendments in this state;

(7) “Inert ingredient” means the ingredients which do not have any beneficial or harmful effects on soil or crops but are present in the product;

(8) “Label” means the display of written, printed, or graphic matter upon the immediate container of a soil amendment;

(9) “Labeling” means all written, printed, or graphic matter upon or accompanying any soil amendment and all advertisements, brochures, posters, or television or radio announcements used in promoting the sale of a soil amendment;

(10) “Manufacturer” means any person who produces, compounds, mixes, or blends soil amendments;

(11) “Misbranded” means and shall apply if:

(A) Any soil amendment bears a label that is false or misleading in any particular;

(B) Any soil amendment is distributed under the name of another soil amendment;

(C) Any material is represented as a soil amendment or is represented as containing a soil amendment, unless the soil amendment conforms to the definition of identity, if any, prescribed by rule;

(D) The percentage of active ingredient in any soil amendment is not shown in the approved ingredient form; or

(E) The labeling on any soil amendment is false or misleading in any particular;

(12) “Name” means the specific designation under which the individual product is offered for sale;

(13) “Percent” or “percentage” means by weight;

(14) “Person” means individuals, partnerships, associations, and corporations;

(15) “Registrant” means any person who registers a soil amendment under the provisions of this subchapter; and

(16) “Soil amendment” means and includes any substance which is intended to improve the physical, chemical, or other characteristics of the soil or improve crop production, except the following:

(A) Commercial fertilizers, unless represented to contain as an active ingredient a substance other than a recognized plant food element or represented as promoting plant growth by other than supplying a recognized plant food element;

(B) Agricultural liming materials;

(C) Agricultural gypsum;

(D) Unmanipulated animal manures;

(E) Topsoil;

(F) Unmanipulated vegetable manures;

(G) Pesticides; and

(H) Herbicides.

**History.** Acts 1977, No. 377, § 3; A.S.A. substituted “rule” for “regulation” in 1947, § 77-2103; Acts 2019, No. 315, § 16. (11)(C).

**Amendments.** The 2019 amendment

**2-19-407. Labeling requirements and approval of ingredients.**

(a) Each container of a soil amendment shall be labeled on the face or display side in a readable and conspicuous form to show the following information:

- (1) The net weight of the contents;
- (2) The name of the product;
- (3) The guaranteed analysis, including the name and the percentage of each active ingredient and the percentage of inert ingredients;
- (4) A statement as to the purpose of the product;
- (5) Adequate directions for use such as application rates, cultural practices, and plants to be benefited; and
- (6) The name and address of the registrant.

(b) Bulk lots shall be labeled by attaching a copy of the label to the invoice which shall be furnished the purchaser.

(c)(1)(A) The State Plant Board may require proof of claims made for any soil amendment.

(B) If no claims are made, the board may require proof of usefulness and value of the soil amendment.

(2)(A) For evidence of proof, the board will rely on experimental data, evaluations, or advice supplied from such sources as the University of Arkansas Agricultural Experiment Station and the University of Arkansas Cooperative Extension Service.

(B) All experimental results shall be related to Arkansas conditions for which the product is intended.

(C) The board may accept or reject other sources of proof as additional evidence in evaluating soil amendments.

(d)(1)(A) No soil-amending ingredient may be listed or guaranteed on the labels or labeling of soil amendments without board approval.

(B)(i) The board may allow a soil-amending ingredient to be listed or guaranteed on the label or labeling if satisfactory supportive data is provided the board to substantiate the value and usefulness of the soil-amending ingredient.

(ii) When a soil-amending ingredient is permitted to be listed or guaranteed, it must be determinable by laboratory methods and is subject to inspection and analysis.

(2) The board may prescribe methods and procedures of inspection and analysis of the soil-amending ingredient.

(3) The board may stipulate, by rule, the quantities of the soil-amending ingredients required in soil amendments.

**History.** Acts 1977, No. 377, § 4; A.S.A. substituted “rule” for “regulation” in 1947, § 77-2104; Acts 2019, No. 315, § 17. (d)(3).

**Amendments.** The 2019 amendment

**2-19-413. Injunctions.**

(a) The State Plant Board is authorized to apply for, and the court is authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions



of this subchapter or any rule promulgated under it, notwithstanding the existence of other remedies at law.

(b) The injunction shall be issued without bond.

**History.** Acts 1977, No. 377, § 12; A.S.A. 1947, § 77-2112; Acts 2019, No. 315, § 18. **Amendments.** The 2019 amendment deleted “or regulation” following “rule” in (a).

## SUBCHAPTER 5 — NATURAL ORGANIC FERTILIZERS

### SECTION.

2-19-501. Definition.

### 2-19-501. Definition.

“One hundred percent (100%) natural organic fertilizer” shall be defined as and include the following:

(1)(A) One hundred percent (100%) organic fertilizer — Materials derived from either plant or animal products containing one (1) or more elements other than carbon, hydrogen, and oxygen which are essential for plant growth.

(B) These materials may be subjected to biological degradation processes under conditions of drying, composting, enzymatic or anaerobic/aerobic bacterial action or any combination of these.

(C) These materials shall not be mixed with synthetic materials;

(2) One hundred percent (100%) natural organic fertilizer shall be processed from only one hundred percent (100%) animal substrate. No other organic or inorganic, natural or synthetic, additives shall be used during processing and no fortification may be used;

(3) One hundred percent (100%) natural organic fertilizers shall contain as a guaranteed analysis not less than: nitrogen (N), four percent (4.0%); phosphoric acid ( $P_2O_5$ ), two percent (2.0%); and potash ( $K_2O$ ), four percent (4.0%); and

(4) Determination of the guaranteed analysis will be according to methods adopted by the AOAC International. (Fertilizers and Materials Containing Large Quantities of Organic Matter; 12th edition, With Following Improvements.).

**History.** Acts 1988 (4th Ex. Sess.), No. 24, § 1; 1991, No. 968, § 1; 2019, No. 378, § 4. **Amendments.** The 2019 amendment redesignated the introductory language of (1) as (1)(A), and redesignated former (1)(A) and (1)(B) as (1)(B) and (1)(C).

**Amendments.** The 2019 amendment

## CHAPTER 20

### PROCESSING, GRADING, LABELING, AND MARKETING OF PRODUCTS

#### SUBCHAPTER.

4. SOYBEAN PROMOTION.

5. RICE PROMOTION.

SUBCHAPTER.

6. WHEAT PROMOTION.

8. CORN AND GRAIN SORGHUM PROMOTION.

SUBCHAPTER 4 — SOYBEAN PROMOTION

SECTION.

2-20-403. Penalties.

2-20-405. Arkansas Soybean Promotion Board — Powers.

2-20-406. Assessments on Arkansas-grown soybeans.

SECTION.

2-20-407. Reports — Books and records.

2-20-408. Refunds to producers.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

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**2-20-403. Penalties.**

(a)(1) Any first purchaser or other person required to pay an assessment under this subchapter who fails to pay any assessment when due shall forfeit a penalty of two percent (2%) of the assessment each month beginning the day following the date the assessment was due.

(2) The penalty shall be paid to the Arkansas Soybean Promotion Board or to its designee, the Secretary of the Department of Finance and Administration, and shall be disposed of in the same manner as funds derived from the payment of an assessment as provided in this subchapter.

(b) The board or its designee shall collect the penalty levied in this section, together with the delinquent assessment, by any and all of the following methods:

(1) Voluntary payment by the person liable;

(2) Legal proceedings instituted in a court of competent jurisdiction;

or

(3) Injunctive relief to enjoin any person owing the assessment or penalty from operating his or her business or engaging in business as a buyer or seller of soybeans until the delinquent assessment or penalty is paid.

(c)(1) Any person required to pay the assessment provided for in this subchapter who refuses to allow full inspection of the premises or any

book, record, or other document relating to the liability of the person for the assessment imposed or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation.

(2) Upon conviction, an offender shall be punished by a fine not exceeding five hundred dollars (\$500).

**History.** Acts 1971, No. 259, § 4; A.S.A. 1947, § 77-2004; Acts 1991, No. 340, § 3; 2005, No. 1994, § 14; 2019, No. 910, § 3272.

substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(2).

**Amendments.** The 2019 amendment

## **2-20-405. Arkansas Soybean Promotion Board — Powers.**

(a) The Arkansas Soybean Promotion Board shall have power:

(1) To conduct plans, projects, or activities that are intended to strengthen the soybean industry's position in the marketplace;

(2) To report to the United Soybean Board the manner in which assessments are collected and the procedure utilized to ensure that assessments due are paid;

(3) To collect assessments paid on soybeans marketed within the state and to establish procedures for ensuring compliance with regard to the payment of such assessments; provided, that the Arkansas Soybean Promotion Board may designate the Secretary of the Department of Finance and Administration to collect assessments and ensure compliance with regard to the payment of such assessments, subject to such rules as may be promulgated by the Arkansas Soybean Promotion Board and as may be reasonably necessary to comply with the Soybean Promotion, Research and Consumer Information Act of 1990;

(4) To remit to the United Soybean Board any assessments paid under this subchapter and the Soybean Promotion, Research and Consumer Information Act of 1990, minus authorized credits and other required deductions, by the last day of the month following the month in which the assessment was paid, unless the United Soybean Board determines a different date for remittance of assessments;

(5) To pay refunds of assessments as required by the United States Secretary of Agriculture or as authorized by this subchapter and determined by the Arkansas Soybean Promotion Board;

(6) To establish escrow accounts to be held and administered as special fund accounts by the Treasurer of State, for the payment of refunds in such amounts and for such periods as required by the United States Secretary of Agriculture or as authorized by this subchapter and determined by the Arkansas Soybean Promotion Board; provided, that interest from such accounts shall accrue to the Arkansas Soybean Promotion Board to be used for authorized activities;

(7) To furnish the United Soybean Board with an annual report by a certified public accountant or an authorized state agency of all funds remitted to the United Soybean Board;

(8) To receive and certify petitions as provided in § 2-20-406(b)(3) and to conduct a referendum election or elections under this subchapter



or the Soybean Promotion, Research and Consumer Information Act of 1990;

(9) To exempt by resolution a class of persons who purchase one thousand (1,000) or fewer bushels of soybeans in any calendar year from the assessment imposed by § 2-20-406(b)(1);

(10) To contract with the United Soybean Board or other persons to implement plans or projects under this subchapter and the Soybean Promotion, Research and Consumer Information Act of 1990; and

(11) To take such further action as may be necessary or appropriate to comply with and to administer this subchapter and the Soybean Promotion, Research and Consumer Information Act of 1990.

(b) The Arkansas Soybean Promotion Board shall not use funds collected or received under this subchapter or the Soybean Promotion, Research and Consumer Information Act of 1990:

(1) To fund plans or projects which make use of any unfair or deceptive acts or practices with respect to the quality, value, or use of any product that competes with soybeans or soybean products; or

(2) To influence any action or policy of the United States Government, any foreign or state government, or any political subdivision thereof; provided, however, that this subdivision (b)(2) shall not apply to:

(A) The communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information;

(B) Any action designed to market soybeans or soybean products directly to a foreign government or a political subdivision thereof; or

(C) The development and recommendation of amendments to this subchapter or the Soybean Promotion, Research and Consumer Information Act of 1990.

**History.** Acts 1991, No. 340, § 5; 2019, No. 910, § 3273.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(3).

## **2-20-406. Assessments on Arkansas-grown soybeans.**

(a)(1) Except as otherwise prescribed by regulations approved by the United States Secretary of Agriculture or the Arkansas Soybean Promotion Board, each person purchasing from, and making payment to, a producer for soybeans produced by such producer and marketed for commercial use, including, in any case in which soybeans are pledged as collateral for a loan issued under any federal price support loan program, the Commodity Credit Corporation, shall be a first purchaser and shall collect an assessment from the producer, and each producer shall pay such assessment to the first purchaser, at the applicable rate prescribed in this section. Each first purchaser shall remit such assessment to the Arkansas Soybean Promotion Board or to its design-

nee, the Secretary of the Department of Finance and Administration. For the purpose of this section, purchases from a producer of soybeans or contracts with a producer for production of soybeans for livestock feed or any other application shall constitute marketing for commercial use.

(2) Any producer marketing processed soybeans or soybean products of that producer's own production to consumers, either directly or through retail or wholesale outlets, or for export purposes, shall remit the assessment as required by this section.

(b)(1) Effective July 1, 1989, there is imposed and levied an assessment at the rate of two cents (2¢) per bushel on all soybeans grown within the State of Arkansas. The assessment shall be deducted from the amount paid the producer at the first point of sale, whether within or without the state, or at the point the soybeans enter into the United States Department of Agriculture loan program.

(2) Notwithstanding subdivision (b)(1) of this section, if an assessment is made under the Soybean Promotion, Research and Consumer Information Act of 1990 upon soybeans grown within the State of Arkansas, then, for so long as such assessment is effective, the assessment imposed and levied under this section shall be twenty-five hundredths of one percent (0.25%) of the net market price of all soybeans grown within the State of Arkansas. The assessment of twenty-five hundredths of one percent (0.25%) shall not be in addition to the national assessment, but is intended to correspond to the state credit for assessments paid to a qualified state soybean board under the Soybean Promotion, Research and Consumer Information Act of 1990. If an assessment under the Soybean Promotion, Research and Consumer Information Act of 1990 shall cease to be effective, then, for so long as no such assessment is made, the assessment imposed and levied under this section shall be as provided in subdivision (b)(1) of this section.

(3)(A) So long as the assessment on soybeans provided for in this section is two cents (2¢) per bushel, the question of the levy of the two-cents-per-bushel assessment on soybeans may be referred to a vote of the soybean producers of the state by the filing of petitions with the Arkansas Soybean Promotion Board containing signatures of Arkansas soybean producers equal in number to fifteen percent (15%) of all soybean producers in the state.

(B) If the petitions are filed and at the referendum election a majority of the Arkansas soybean producers voting on the question vote against the levy of two cents (2¢) per bushel on soybeans, the assessment shall not thereafter be levied.

(C) Only those soybean producers who produce soybeans in Arkansas in the crop year immediately preceding the referendum election shall be eligible to vote in the election.

(c)(1) The proceeds of the assessment shall be deposited with the Treasurer of State into a special fund to be established for the Arkansas Soybean Promotion Board; provided, that the Secretary of the Depart-



ment of Finance and Administration may deduct not more than three percent (3%) to cover the cost of collections.

(2) Disbursement shall be made only upon motion duly passed by the Arkansas Soybean Promotion Board and presented to the Treasurer of State and only for the purposes prescribed in this subchapter.

**History.** Acts 1971, No. 259, § 3; 1979, No. 355, §§ 2, 3; A.S.A. 1947, § 77-2003; Acts 1989, No. 102, § 1; 1991, No. 340, § 6; 2019, No. 910, §§ 3274, 3275.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in the second sentence of (a)(1); and substituted "secretary" for "director" in (c)(1).

## 2-20-407. Reports — Books and records.

(a) Each person responsible for the collection and remittance of assessments under § 2-20-406(a) shall report to the Arkansas Soybean Promotion Board such information as may be required from time to time by rules approved by the United States Secretary of Agriculture or the board. Such information may include, but not be limited to, the following:

(1) The number of bushels of soybeans purchased, initially transferred, or which, in any other manner, is subject to the collection of the assessment;

(2) The amount of assessments remitted;

(3) The basis, if necessary, to show why the remittance is less than the applicable rate of the assessment per bushel of soybeans purchased multiplied by the number of bushels purchased; and

(4) The date any assessment was paid.

(b)(1) Each person who is subject to this subchapter shall maintain and make available for inspection by the United States Department of Agriculture, the board or its designee, the Secretary of the Department of Finance and Administration, such books and records as are necessary to carry out the provisions of this subchapter and the rules issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two (2) years beyond the fiscal period of their applicability.

(2) Any producer who plants less than twenty-five (25) acres of soybeans annually shall not be required to maintain books or records under this section.

(c) All information obtained from books, records, or reports required to be filed or kept under this section shall be kept confidential by all persons, including employees and former employees of the board, all officers and employees and all former officers and employees of the Department of Finance and Administration, and by all officers and employees and all former officers and employees of contracting parties having access to such information, and shall not be available to board members or any other producers. Only those persons having a specific need for such information in order to effectively administer the provisions of this subchapter shall have access to such information. In



addition, only such information so furnished or acquired as the United States Department of Agriculture or the board deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the United States Department of Agriculture or the board, or to which the United States Department of Agriculture, any officer of the United States, the board, or the Secretary of the Department of Finance and Administration, is a party. This section shall not be deemed to prohibit:

(1) The issuance of general statements based upon the reports of the number of persons subject to this subchapter or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(2) The publication, by direction of the United States Secretary of Agriculture or the board, of the name of any person who has been adjudged to have violated this subchapter, together with a statement of the particular provisions of the subchapter violated by such person.

**History.** Acts 1971, No. 259, § 3; 1979, No. 355, §§ 2, 3; A.S.A. 1947, § 77-2003; Acts 1991, No. 340, § 7; 2019, No. 910, §§ 3276, 3277.

**Amendments.** The 2019 amendment substituted "United States Department of Agriculture, the board or its designee, the Secretary of the Department of Finance and Administration" for "secretary, the

board or its designee, the Director of the Department of Finance and Administration" in the first sentence of (b)(1); and, in the third sentence of (c), substituted "United States Department of Agriculture" for "secretary" three times and substituted "Secretary of the Department of Finance and Administration" for "director".

## 2-20-408. Refunds to producers.

(a) So long as the assessment on soybeans is as provided in § 2-20-406(b)(1), any soybean producer may request and receive a refund of such assessment, provided he or she makes a written application therefor with the Arkansas Soybean Promotion Board or its designee, the Secretary of the Department of Finance and Administration, within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the purchaser, and provided further, that the application is filed before the annual accounting is made of the funds not later than July 1 each year.

(b) So long as the assessment on soybeans is as provided in § 2-20-406(b)(2), any soybean producer may request and receive a refund of such assessment to the extent provided by the Soybean Promotion, Research and Consumer Information Act of 1990. Such producer shall make written application therefor with the board or its designee, the secretary, within forty-five (45) days from the date the assessment was due from such producer, supported by copies of sales slips signed by the purchaser.

**History.** Acts 1971, No. 259, § 3; 1979, No. 355, §§ 2, 3; A.S.A. 1947, § 77-2003; Acts 1991, No. 340, § 8; 2019, No. 910, § 3278.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and

Administration” in (a); and substituted “secretary” for “director” in the second sentence of (b).

SUBCHAPTER 5 — RICE PROMOTION

SECTION.	SECTION.
2-20-504. Penalties.	2-20-508. Records and other documenta-
2-20-507. Assessments on grown rice.	tion.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

2-20-504. Penalties.

(a)(1) Any buyer who fails to file a report or pay any assessment within the required time set by the Secretary of the Department of Finance and Administration shall forfeit to the secretary a penalty of five percent (5%) of the assessment determined to be due plus one percent (1%) for each month of delay, or fraction of a month, after the first month after the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the secretary and shall be disposed of by him or her in the same manner as funds derived from the payment of the assessment imposed in this subchapter.

(b) The secretary shall collect the penalty levied in this subchapter, together with the delinquent assessment, by any or all of the following methods:

- (1) Voluntary payment by the person liable;
  - (2) Legal proceedings instituted in a court of competent jurisdiction;
- or
- (3) Injunctive relief to enjoin any buyer owing an assessment or penalty from operating his or her business or engaging in business as a buyer of rice until the delinquent assessment or penalty is paid.

(c)(1) Any person required to pay the assessment provided for in this subchapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed in this subchapter or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation.

(2) Upon conviction, an offender shall be punished by a fine not exceeding five hundred dollars (\$500).

**History.** Acts 1985, No. 725, § 5; A.S.A. 1947, § 77-2505; Acts 2005, No. 1994, § 15; 2019, No. 910, § 3279.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(1); and substituted "secretary" for "director" throughout (a) and (b).

## 2-20-507. Assessments on grown rice.

(a) There are imposed and levied:

(1) An assessment at the rate of one and thirty-five hundredths cents (1.35¢) per bushel to be paid by the buyer at the first point of sale, whether within or without the state, on rice grown within the state or at the point the rice enters into the United States Department of Agriculture loan program; and

(2) An assessment at the rate of one and thirty-five hundredths cents (1.35¢) per bushel to be paid by the producer on all rice grown within this state.

(b) The assessment imposed and levied by this section shall be collected by the Secretary of the Department of Finance and Administration from the buyer of rice at the first point of sale or at the point the rice enters into the United States Department of Agriculture loan program.

(c)(1) The proceeds of the assessment, less not more than three percent (3%) to cover the cost of collections, shall be deposited with the Treasurer of State in a special fund to be established for the Arkansas Rice Research and Promotion Board to the credit of the board.

(2) Disbursement shall be made only upon a motion duly passed by the board and presented to the Treasurer of State and only for a purpose prescribed in this subchapter.

(d)(1) The funds derived from the assessment paid by a buyer at the first point of sale shall be used for:

(A) Market development and promotion;

(B) Basic administration expenses; and

(C) Defraying the costs of referenda that the board may refer to buyers of rice.

(2) The funds derived from the assessment paid by a producer shall be used for:

(A) Rice extension and rice research;

(B) Basic administration expenses; and

(C) Defraying the costs of referenda that the board may refer to producers of rice.

(3) Funds under subdivisions (d)(1) and (2) of this section may be applied within or without Arkansas, including regional, national, and international applications.

**History.** Acts 1985, No. 725, § 4; A.S.A. 1947, § 77-2504; Acts 1999, No. 16, § 4; 2005, No. 852, § 1; 2019, No. 910, § 3280.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Direc-



tor of the Department of Finance and Administration” in (b).

2-20-508. Records and other documentation.

(a)(1) Every buyer shall keep a complete and accurate record of all rice handled by him or her.

(2) The records shall be in such form and contain other information as the Arkansas Rice Research and Promotion Board shall prescribe by rule.

(3) The record shall be preserved for a period of one (1) year and shall be offered for inspection at any time upon written demand by the Secretary of the Department of Finance and Administration or any duly authorized agent or representative of him or her.

(b)(1) At such times as the secretary may require, every buyer shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this subchapter.

(2) The secretary shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of rice and examine or cause to be examined by the agent any books, papers, and records which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this subchapter.

**History.** Acts 1985, No. 725, § 4; A.S.A. 1947, § 77-2504; Acts 2019, No. 315, § 19; 2019, No. 910, §§ 3281, 3282.

**Amendments.** The 2019 amendment by No. 315 deleted “or regulation” following “rule” in (a)(2).

The 2019 amendment by No. 910 substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” in (a)(3); and substituted “secretary” for “director” in (b)(1) and (2).

SUBCHAPTER 6 — WHEAT PROMOTION

SECTION.

- 2-20-603. Penalties.
- 2-20-606. Assessments on grown wheat.
- 2-20-607. Records and other documentation.

SECTION.

- 2-20-608. Refunds to producers.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through

6343 of this act being necessary for the and safety shall become effective on July preservation of the public peace, health, 1, 2019”.

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### 2-20-603. Penalties.

(a)(1) Any buyer who fails to file a report or pay any assessment within the required time set by the Secretary of the Department of Finance and Administration shall forfeit to the secretary a penalty of five percent (5%) of the assessment determined to be due plus one percent (1%) for each month of delay, or fraction of a month, after the first month after the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the secretary and shall be disposed of by him or her in the same manner as funds derived from the payment of the assessment imposed in this subchapter.

(b) The secretary shall collect the penalty levied in this subchapter, together with the delinquent assessment, by any or all of the following methods:

(1) Voluntary payment by the person liable;

(2) Legal proceedings instituted in a court of competent jurisdiction;

or

(3) Injunctive relief to enjoin any buyer owing an assessment or penalty from operating his or her business or engaging in business as a buyer of wheat until the delinquent assessment or penalty is paid.

(c)(1) Any person required to pay the assessment provided for in this subchapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed in this subchapter or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation.

(2) Upon conviction, an offender shall be punished by a fine not exceeding five hundred dollars (\$500).

**History.** Acts 1985, No. 283, § 4; A.S.A. 1947, § 77-2404; Acts 2005, No. 1994, § 16; 2019, No. 910, §§ 3283, 3284.

**Amendments.** The 2019 amendment substituted “Secretary of the Department

of Finance and Administration” for “Director of the Department of Finance and Administration” in (a)(1); and substituted “secretary” for “director” throughout (a) and (b).

### 2-20-606. Assessments on grown wheat.

(a)(1) There is imposed and levied an assessment at the rate of one cent (1¢) per bushel on all wheat grown within the state.

(2) This assessment shall be deducted from the amount paid the producer at the first point of sale, whether within or without the state, or at the point the wheat enters into the United States Department of Agriculture loan program.

(3) This assessment may be extended for an indefinite period of time or until twenty percent (20%) of the producers ask for return of funds;

then another referendum shall be called by the Arkansas Wheat Promotion Board in the manner set forth in this subchapter.

(b)(1) The assessment imposed and levied by this section shall be collected by the Secretary of the Department of Finance and Administration from the buyer of wheat at the first point of sale or when the wheat enters the United States Department of Agriculture loan program.

(2)(A) The proceeds of the assessment, less not more than three percent (3%) to cover cost of collections, shall be deposited with the Treasurer of State in a special fund to be established for the board to the credit of the board.

(B) Disbursement shall be made only upon motions duly passed by the board and presented to the Treasurer of State, and only for purposes prescribed in this subchapter.

**History.** Acts 1985, No. 283, § 3; A.S.A. 1947, § 77-2403; Acts 1995, No. 107, § 1; 2019, No. 910, § 3285.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b)(1).

## 2-20-607. Records and other documentation.

(a)(1) Every buyer shall keep a complete and accurate record of all wheat handled by him or her.

(2) The records shall be in such form and contain other information as the Arkansas Wheat Promotion Board shall prescribe, by rule.

(3) The record shall be preserved for a period of one (1) year and shall be offered for inspection at any time upon written demand by the Secretary of the Department of Finance and Administration or any duly authorized agent or representative of him or her.

(b)(1) At such times as the secretary may require, every buyer shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this subchapter.

(2) The secretary shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of wheat and examine or cause to be examined by the agent any books, papers, and records which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this subchapter.

**History.** Acts 1985, No. 283, § 3; A.S.A. 1947, § 77-2403; Acts 2019, No. 910, §§ 3286, 3287.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(3); and substituted "secretary" for "director" in (b)(1) and (2).

## 2-20-608. Refunds to producers.

Any wheat producer may request and receive a refund of the amount deducted from the sale of his or her wheat if:



(1) He or she makes a written application with the Secretary of the Department of Finance and Administration within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the purchaser; and

(2) The application is filed before the annual accounting is made of the funds not later than July 1 each year.

**History.** Acts 1985, No. 283, § 3; A.S.A. 1947, § 77-2403; Acts 2019, No. 910, § 3288.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (1).

## SUBCHAPTER 8 — CORN AND GRAIN SORGHUM PROMOTION

### SECTION.

2-20-802. Penalties.

2-20-805. Powers and duties — Assessments — Buyers' records.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

### 2-20-802. Penalties.

(a)(1) Any buyer who fails to file a report or pay any assessment within the required time set by the Secretary of the Department of Finance and Administration shall forfeit to the secretary a penalty of five percent (5%) of the assessment determined to be due plus one percent (1%) for each month of delay, or fraction of a month, after the first month after the report was required to be filed or the assessment became due.

(2) The penalty shall be paid to the secretary and shall be disposed of by him or her in the same manner as funds derived from the payment of the assessment imposed in this subchapter.

(b) The secretary shall collect the penalty levied in this section, together with the delinquent assessment, by any or all of the following methods:

(1) Voluntary payment by the person liable;

(2) Legal proceedings instituted in a court of competent jurisdiction; or

(3) Injunctive relief to enjoin any buyer owing the assessment or penalty, or both, from operating his or her business or engaging in business as a buyer of corn or grain sorghum until the delinquent assessment or penalty, or both, is paid.

(c) Any person required to pay the assessment provided for in this subchapter who refuses to allow full inspection of the premises or any book, record, or other document relating to the liability of the person for the assessment imposed by this subchapter or who shall hinder or in any way delay or prevent the inspection shall be guilty of a violation and upon conviction shall be punished by a fine not exceeding five hundred dollars (\$500).

**History.** Acts 1997, No. 271, § 4; 2005, No. 1994, § 17; 2019, No. 910, §§ 3289, 3290.

**Amendments.** The 2019 amendment substituted “Secretary of the Department

of Finance and Administration” for “Director of the Department of Finance and Administration” in (a)(1); and substituted “secretary” for “director” throughout (a) and (b).

## **2-20-805. Powers and duties — Assessments — Buyers’ records.**

(a)(1) The Arkansas Corn and Grain Sorghum Promotion Board shall appoint three (3) corn or grain sorghum producers from each county who will be responsible for holding a referendum in the county.

(2) The board will set the dates for the referendum and prescribe procedures to be followed in conducting the referendum.

(3) Voting shall be in farm service agency offices under supervision of the three (3) producers appointed to hold the referendum.

(4) Ballots will be furnished by the board.

(5) The results shall be certified not more than three (3) days after election on forms furnished by the board by registered mail to the board.

(6) The board shall be reimbursed from funds collected for costs of holding the referendum.

(b)(1) There is imposed and levied an assessment at the rate of one cent (1¢) per bushel on all corn and grain sorghum grown within the state.

(2) This assessment is to be deducted from the amount paid the producer at the first point of sale, whether within or without the state or at the point the corn or grain sorghum enters into the United States Department of Agriculture loan program. However, the assessment shall not be imposed unless and until:

(A) The question of its imposition has been submitted to and approved by sixty percent (60%) of the corn and grain sorghum producers who vote in the referendum to be called and held within nine (9) months following July 1, 1997; and

(B) A minimum of ten percent (10%) of the total corn and grain sorghum producers in this state as determined by latest available agricultural census data shall have voted.

(3) The corn and grain sorghum producers shall be notified by the board of the results of the referendum.

(4) The assessment imposed in this section shall be effective beginning July 1, 1998.

(5) This assessment may be extended for an indefinite period of time or until twenty percent (20%) of the producers shall petition the board to hold a referendum on whether the program should be continued, then another referendum shall be called by the board in the manner set forth in this section.

(6) In all such referenda, in order to be eligible to vote, the producer must have produced corn or grain sorghum in the crop year immediately preceding the referendum.

(c)(1) The assessment imposed and levied by this section shall be collected by the Secretary of the Department of Finance and Administration from the buyer of corn or grain sorghum at the first point of sale or when the corn or grain sorghum enters the United States Department of Agriculture loan program.

(2) The proceeds of the assessment, less not more than three percent (3%) to cover the cost of collections, shall be deposited with the Treasurer of State in a special fund to be established for the board to the credit of the board. Disbursement from the special fund shall be made only upon a motion duly passed by the board and presented to the Treasurer of State and only for a purpose prescribed in this subchapter.

(d)(1) Every buyer shall keep a complete and accurate record of all corn and grain sorghum handled by him or her.

(2) The records shall be in such form and contain other information as the board shall by rule prescribe.

(3) The record shall be preserved for a period of one (1) year and shall be offered for inspection at any time upon written demand by the secretary or any duly authorized agent or representative of the secretary.

(4) Every buyer, at such time or times as the secretary may require, shall submit reports or otherwise document any information deemed necessary for the efficient collection of the assessment imposed in this section.

(5) The secretary shall have the power to cause any duly authorized agent or representative to enter upon the premises of any buyer of corn or grain sorghum and examine or cause to be examined by the agent any book, paper, and record which deal in any way with respect to the payment of the assessment or enforcement of the provisions of this subchapter.

**History.** Acts 1997, No. 271, § 3; 2019, No. 910, §§ 3291, 3292.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Direc-

tor of the Department of Finance and Administration" in (c)(1); and substituted "secretary" for "director" throughout (d)(3) through (d)(5).



## CHAPTER 25

### ARKANSAS GRAIN GRADING ACT

**SECTION.**

- 2-25-101. Title.  
2-25-102. Definitions.  
2-25-103. Administration.

**SECTION.**

- 2-25-104. Disputes.  
2-25-105. Enforcement.  
2-25-106. Penalties.

**2-25-101. Title.**

This chapter shall be known and may be cited as the “Arkansas Grain Grading Act”.

**History.** Acts 2019, No. 795, § 1.

**2-25-102. Definitions.**

As used in this chapter:

- (1) “Grain” means corn, soybeans, and wheat;
- (2) “Grain dealer” means a person or entity that receives grain from a grain producer and sells or distributes grain commercially;
- (3) “Official grading agency” means an agency or laboratory authorized by the United States Agricultural Marketing Service to provide official inspection and weighing services on behalf of the United States Agricultural Marketing Service; and
- (4) “Producer” means a farmer who grows grain and delivers grain to a grain dealer.

**History.** Acts 2019, No. 795, § 1.

**2-25-103. Administration.**

(a) The Department of Agriculture shall adopt rules governing the standards for sampling and grading grain that are consistent with the standards for sampling and grading grain developed by the United States Department of Agriculture.

(b) The Department of Agriculture shall certify:

- (1) Grain dealers that employ grain samplers and graders; and
- (2) Courses of instruction in the methods of sampling and grading grain.

(c) The Department of Agriculture shall issue a certificate to a grain dealer who conducts a course of instruction for sampling and grading grain that is satisfactory to the Department of Agriculture.

(d) A grain dealer who issues grades for grain shall:

- (1) Sample and grade each load of grain delivered by a producer within twenty-four (24) hours of the time the grain is delivered to the grain dealer; and

(2) Retain each sample of grain received from a producer that is subject to excessive deductions for grain damage or foreign material.

(e)(1) The Department of Agriculture shall promulgate a rule regarding the level of deduction that is excessive for each type of grain.

(2) The rule shall:

(A) Include the deductions for grain damage or foreign material;

(B) Be based upon the numerical grades determined for each type of grain by the United States Department of Agriculture; and

(C) Include a provision allowing for variance in the moisture level of a sample, which shall not subject the sample to reinspection.

(f) Samples of grain that are subject to excessive deductions shall be retained in separate containers for two (2) days from the date the sample was graded.

**History.** Acts 2019, No. 795, § 1.

### **2-25-104. Disputes.**

(a) If a dispute arises regarding the grading of a sample that is subject to excessive deductions, the grain dealer or the producer, or both, may request that the sample be regraded by an official grading agency for an official grade that shall be deemed the official grade of the disputed sample.

(b) If a regrading is requested, the grain dealer shall provide the sample to the official grading agency at the requester's expense.

**History.** Acts 2019, No. 795, § 1.

### **2-25-105. Enforcement.**

(a) An employee of the Department of Agriculture may inspect randomly selected grain dealers to ensure the grain dealer is certified by the department for sampling and grading grain.

(b) An employee of the grain dealer that is responsible for sampling and grading grain is required to demonstrate through skill an adequate knowledge of sampling and grading grain as determined by the department.

**History.** Acts 2019, No. 795, § 1.

### **2-25-106. Penalties.**

(a) If the Department of Agriculture conducts an inspection of a grain dealer as permitted under § 2-25-105(a) and determines that a grain dealer who issues grades is not taking samples of graded grain in a manner consistent with the standards adopted by the department, the department may place the grain dealer on probation.

(b)(1) If a grain dealer who issues grades for grain is placed on probation, an employee of an official grading agency may inspect randomly selected samples of graded grain to determine whether the grain dealer is taking samples and grading grain in a manner consistent with the rules adopted by the department.

(2) The samples of graded grain shall be obtained and an inspection performed during the normal working hours of the grain dealer.

(3) The grain dealer shall pay for the samples of graded grain that are inspected.

**History.** Acts 2019, No. 795, § 1.

### ***SUBTITLE 3. LIVESTOCK***

## **CHAPTER 32**

## **GENERAL PROVISIONS**

### **SUBCHAPTER.**

4. LIVESTOCK OWNER'S LIEN ACT.

5. ADMINISTRATIVE PROCEEDINGS.

### **SUBCHAPTER 4 — LIVESTOCK OWNER'S LIEN ACT**

### **SECTION.**

2-32-402. Definitions.

### **2-32-402. Definitions.**

As used in this subchapter:

(1) "Affiliate" means a person that:

(A) Is directly or indirectly controlled by a first purchaser; or

(B) Directly or indirectly controls a first purchaser;

(2) "Agreement to sell" means an enforceable oral or written agreement by which a livestock owner, either directly or through a sales agent, agrees to sell livestock to a first purchaser;

(3) "Control" or "controlled by" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person through ownership, by contract, or otherwise;

(4) "First purchaser" means the first person that purchases livestock, either directly or indirectly through a sales agent, under an agreement to sell;

(5) "Livestock" means cattle, bison, horses, sheep, goats, asses, mules, swine, domesticated rabbits, chickens, turkeys, and other domesticated animals raised primarily for human food consumption;

(6) "Livestock owner" means a person owning an interest in livestock before the acquisition of the livestock by a first purchaser;

(7) "Owner's lender" means a person that has a valid mortgage lien or security interest in a livestock owner's livestock at the time the livestock is delivered to the first purchaser;

(8) "Owner's lien" means a lien granted under this subchapter;

(9)(A) "Permitted lien" means the following liens or security interests:

(i) A mortgage lien or security interest granted by a first purchaser that:



(a) Secures payment under a written instrument of indebtedness signed by the first purchaser and accepted in writing by the payee before August 16, 2013; and

(b) Has a principal amount and a fixed maturity stated in the mortgage lien or security interest; and

(ii) A validly perfected and enforceable lien created by statute in relation to livestock purchased under an agreement to sell that secures payment of indebtedness incurred by the first purchaser before August 16, 2013.

(B) "Permitted lien" does not include a mortgage lien or security interest that:

(i) Secures payment under a written instrument of indebtedness that is modified, amended, or restated from or after August 16, 2013, by a modification, amendment, or restatement that increases the principal amount that is owed on August 16, 2013;

(ii) Secures payment under a written instrument of indebtedness that is modified, amended, or restated from or after August 16, 2013, by a modification, amendment, or restatement that extends the stated maturity of the written instrument of indebtedness that is in effect on August 16, 2013; or

(iii) Is not validly perfected with a first priority against the claims of all persons under applicable law other than a person holding a statutory or regulatory lien as to which first priority is granted by statute or rule;

(10) "Person" means an individual or business entity, including without limitation an executor, administrator, estate, agent, trust, trustee, institution, receiver, business trust, firm, corporation, partnership, limited liability company, cooperative, joint venture, governmental entity or agency, association, and any other legal entity;

(11) "Proceeds" means:

(A) A right or amount paid or to be paid in consideration of or as a consequence of the sale of livestock, including without limitation cash proceeds, accounts, chattel paper, instruments, and payment intangibles;

(B) A by-product from the slaughter of livestock; and

(C) A right or amount paid or to be paid in consideration of or as a consequence of the sale of a by-product from the slaughter of livestock;

(12) "Purchaser" means a person that:

(A) Is not an affiliate of a first purchaser; and

(B) Takes, receives, or purchases livestock from a first purchaser;

(13)(A) "Sales agent" means a person that is authorized to sell livestock on behalf of or for the benefit of another person.

(B) "Sales agent" includes without limitation a livestock auction, auctioneer, commission company, or broker; and

(14) "Sales price" means the amount a first purchaser agrees to pay a livestock owner or a sales agent under an agreement to sell.

**History.** Acts 2013, No. 499, § 1; 2019, No. 315, § 20. substituted “rule” for “regulation” in (9)(B)(iii).

**Amendments.** The 2019 amendment

SUBCHAPTER 5 — ADMINISTRATIVE PROCEEDINGS

SECTION.  
2-32-501. Administrative penalties.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

2-32-501. Administrative penalties.

- (a) The Arkansas Livestock and Poultry Commission may impose administrative penalties not to exceed five thousand dollars (\$5,000) per violation against a person who violates any provision of this subtitle or any rule adopted by the commission under this subtitle.
- (b) The imposition of administrative penalties shall be conducted under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
- (c) The commission or the commission’s designee may issue subpoenas.
- (d) If a person against whom an administrative penalty has been imposed by the commission as authorized under this section fails to pay the penalty to the commission, the commission may file an action to collect the administrative penalty in the circuit court of the county in which the person resides.

**History.** Acts 2017, No. 1011, § 18; 2019, No. 910, § 25. nee” for “or the Deputy Director of the Arkansas Livestock and Poultry Commission” in (c).

**Amendments.** The 2019 amendment substituted “or the commission’s designee” for “or the Deputy Director of the Arkansas Livestock and Poultry Commission” in (c).

CHAPTER 33

ARKANSAS LIVESTOCK AND POULTRY COMMISSION

SUBCHAPTER.  
1. GENERAL PROVISIONS.  
3. POULTRY DIVISION.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

2-33-104. Director.

2-33-105. State Veterinarian.

2-33-111. Livestock and poultry diagnostic services.

SECTION.

2-33-115. Fees.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

**2-33-104. Director.**

(a)(1) The Director of the Arkansas Livestock and Poultry Commission shall be appointed by the Governor and shall serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Agriculture.

(b)(1) The secretary may delegate to the director any of the powers or duties required to administer the:

(A) Statutory duties of the Arkansas Livestock and Poultry Commission; and

(B) Rules, orders, or directives promulgated or issued by the commission.

(2) The director may exercise the powers and duties delegated to him or her under subdivision (b)(1) of this section in the name of the commission and of the Department of Agriculture.

**History.** Acts 1963, No. 87, §§ 7, 8; A.S.A. 1947, §§ 78-307, 78-308; Acts 2017, No. 1011, § 3; 2019, No. 910, § 26.

**Amendments.** The 2019 amendment

substituted “Director” for “Deputy director” in the section heading and rewrote the section.

**2-33-105. State Veterinarian.**

(a) The Secretary of the Department of Agriculture shall employ a State Veterinarian.

(b) The State Veterinarian shall be a person who has been granted the degree of Doctor of Veterinary Medicine and holds a current license issued by the Veterinary Medical Examining Board of this state.



**History.** Acts 1963, No. 87, §§ 7, 8; A.S.A. 1947, §§ 78-307, 78-308; Acts 2017, No. 1011, § 4; 2019, No. 910, § 27. **Amendments.** The 2019 amendment rewrote the section.

### 2-33-111. Livestock and poultry diagnostic services.

(a) The Arkansas Livestock and Poultry Commission may promulgate rules concerning services performed by the Arkansas Livestock and Poultry Commission Veterinary Diagnostic Laboratory.

(b)(1) A fee structure may be designed and maintained by the commission for the purpose of defraying the cost of diagnostic services.

(2)(A) The fees collected shall be deposited into the State Treasury as special revenues and shall be credited to the Livestock and Poultry Special Revenue Fund.

(B) Before the close of each fiscal year, the Chief Fiscal Officer of the State shall determine the amount of moneys which will remain at the end of the fiscal year into the account from fees collected under this section and shall allow the moneys to be carried forward and made available for the same purposes in the next succeeding fiscal year.

(c)(1) All materials, data, and information received by the laboratory are confidential and are not subject to examination or disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) An employee shall not knowingly disclose any materials, data, or information concerning submissions to the laboratory without the consent of the parties involved.

(d)(1) The laboratory shall be administered by the Department of Agriculture.

(2)(A) The department may by rule assign additional laboratory duties and functions to the laboratory.

(B) Additional laboratory duties and functions assigned under subdivision (d)(2)(A) of this section shall be funded by the department and not by the special revenues established in subsection (b) of this section.

**History.** Acts 1983, No. 366, § 17; A.S.A. 1947, § 78-331.1; Acts 1995, No. 236, § 25; 2017, No. 1011, § 10; 2019, No. 910, § 28. **Amendments.** The 2019 amendment added (d).

### 2-33-115. Fees.

(a) The following fees shall be assessed by the Arkansas Livestock and Poultry Commission:

(1) A fee of two dollars (\$2.00) per head collected on all horses sold in the state; and

(2) On each state, district, and county fair held in the State of Arkansas there shall be levied a four and five-tenths percent (4.5%) surcharge on each paid admission to the fairs, and such levy shall be remitted to the Treasurer of State, who shall deposit the revenues into

the State Treasury to the credit of the Livestock and Poultry Special Revenue Fund or the Livestock and Poultry Commission Disease and Pest Control Fund as determined by the Secretary of the Department of Agriculture.

(b) The commission is hereby authorized to promulgate such rules as are necessary to administer the fees, rates, or charges for services established herein.

**History.** Acts 1993, No. 1174, § 18; 1995, No. 236, § 27; 2017, No. 1011, § 14; 2019, No. 910, § 29.

**Amendments.** The 2019 amendment substituted “Arkansas Livestock and

Poultry Commission” for “Livestock and Poultry Commission” in the introductory language of (a); and substituted “Department of Agriculture” for “Arkansas Agriculture Department” in (a)(2).

### SUBCHAPTER 3 — POULTRY DIVISION

#### SECTION.

2-33-308. Overtime compensation.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

#### 2-33-308. Overtime compensation.

The Department of Agriculture is hereby authorized to pay ordinary, customary, and necessary overtime compensation in accordance with rules promulgated by the Chief Fiscal Officer of the State to those employees, including egg and poultry grader supervisors, engaged in the inspection and grading of eggs and poultry products under the Arkansas Livestock and Poultry Commission’s Poultry and Egg Grading Program.

**History.** Acts 1989 (1st Ex. Sess.), No. 192, § 22; 2019, No. 910, § 30.

**Amendments.** The 2019 amendment substituted “Department of Agriculture” for “Arkansas Livestock and Poultry Com-

mission’s Poultry and Egg Grading Program”, and added “under the Arkansas Livestock and Poultry Commission’s Poultry and Egg Grading Program”.

## CHAPTER 34

### BRANDS AND MARKS

SUBCHAPTER.

2. BRAND REGISTRY.

#### SUBCHAPTER 2 — BRAND REGISTRY

SECTION.

2-34-201. Definitions.

2-34-205. Custody of county brand records.

SECTION.

2-34-210. Sale of book.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

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#### 2-34-201. Definitions.

As used in this subchapter:

(1) “Brand” means for purposes of ownership identification a permanent identification burned or frozen into the hide of a live animal with a hot iron or hot or frozen chemical in letters, numbers, or figures, each of which is at least three inches (3”) in overall length or diameter and is to be considered in relation to its location on the animal; and

(2) “Livestock” and “animal” mean any bovine, horse, or mule.

**History.** Acts 1959, No. 179, § 1; A.S.A. 1947, § 78-807; Acts 1999, No. 14, § 1; 2015, No. 965, § 3; 2019, No. 378, § 5.

**Amendments.** The 2019 amendment substituted “bovine” for “cattle” in (2).

#### 2-34-205. Custody of county brand records.

(a) All county brand records of the various counties of the state shall be property of the Arkansas Livestock and Poultry Commission, and it shall be unlawful for a county clerk to accept a brand for registry.

(b) The Department of Agriculture shall collect all county brand record books and place them in its office and preserve them as public records on behalf of the commission.



(c) The department shall furnish a record of any brand record in the county record books to any person for a reasonable fee determined by the department to offset the costs of furnishing the record.

**History.** Acts 1959, No. 179, § 3; A.S.A. 1947, § 78-809; Acts 2015, No. 965, § 3; 2017, No. 1011, § 27; 2019, No. 910, § 31.

**Amendments.** The 2019 amendment, in (b), substituted “Department of Agricul-

ture” for “commission” and added “on behalf of the commission”; and substituted “department” for “commission” twice in (c).

**2-34-210. Sale of book.**

(a) The State Brand Book and all supplements to the State Brand Book, for a five-year period, shall be sold to the public for a reasonable fee to be determined by the Arkansas Livestock and Poultry Commission to offset the costs of producing the State Brand Book.

(b) A supplement to the State Brand Book shall be sold to the public for a reasonable fee determined by the Department of Agriculture to offset the costs of producing the supplement.

(c) The county clerk and the sheriff of each county shall receive copies of all State Brand Books and supplements without cost to their respective county.

**History.** Acts 1959, No. 179, § 8; A.S.A. 1947, § 78-814; Acts 2015, No. 965, § 3; 2017, No. 1011, § 30; 2019, No. 378, § 6; 2019, No. 910, § 32.

**Amendments.** The 2019 amendment by No. 378 inserted “copies of” in (c).

The 2019 amendment by No. 910 substituted “Department of Agriculture” for “Deputy Director of the Arkansas Livestock and Poultry Commission” in (b).

**CHAPTER 35**

**MARKETING, SALE, AND TRANSPORTATION**

SUBCHAPTER.

3. ARKANSAS BEEF COUNCIL.

4. BEEF PROMOTION AND RESEARCH.

**SUBCHAPTER 3 — ARKANSAS BEEF COUNCIL**

SECTION.

2-35-310. Refunds.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that

the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

2-35-310. Refunds.

Any cattle producer may request and receive a refund of the amount deducted from the sale of his or her cattle if he or she makes a written application with the Secretary of the Department of Finance and Administration within forty-five (45) days from the date of sale, supported by copies of sales slips signed by the buyer and, if the application is filed before the annual accounting is made of the funds, not later than July 1 each year.

**History.** Acts 1983, No. 160, § 8; A.S.A. 1947, § 78-1908; Acts 2019, No. 910, § 3293. substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration”.

**Amendments.** The 2019 amendment

SUBCHAPTER 4 — BEEF PROMOTION AND RESEARCH

SECTION.  
2-35-403. Assessment — Conduct of program.

SECTION.  
2-35-404. Rules.  
2-35-405. Disposition of funds.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

2-35-403. Assessment — Conduct of program.

(a) The assessment levied under the national beef promotion and research program in the amount of one dollar (\$1.00) per head of cattle sold shall be collected, reported, and remitted to the Secretary of the Department of Finance and Administration by the persons, in the manner, and at the times prescribed by the federal Beef Promotion and Research Act of 1985 and the administrative orders and rules issued under the provisions of that act.

(b) Records concerning cattle sales and the collection of assessments shall be maintained.

(c) The national beef promotion and research program shall in all respects be conducted in Arkansas in conformity with federal law, orders, and regulations regarding the program so long as the national beef promotion and research program is in effect.

**History.** Acts 1987, No. 3, § 2; 2019, No. 910, § 3294.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (a).

## 2-35-404. Rules.

The Secretary of the Department of Finance and Administration is authorized to adopt appropriate rules not inconsistent with this subchapter or the federal law, orders, and rules regarding the national beef promotion and research program as he or she may deem necessary to carry out the intent and purposes of, and to assure compliance with, this subchapter and the federal laws, orders, and rules relating to the national beef promotion and research program.

**History.** Acts 1987, No. 3, § 3; 2019, No. 910, § 3295.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration".

## 2-35-405. Disposition of funds.

(a) The Secretary of the Department of Finance and Administration shall deposit into the State Treasury all funds collected by him or her under this subchapter and the federal Beef Promotion and Research Act of 1985 and the federal administrative orders and rules issued under that act. Beginning with funds collected by him or her on and after the first day of the month next following January 22, 1987, the Treasurer of State shall:

(1) Credit to the National Beef Promotion Account fifty cents (50¢) of each one dollar (\$1.00) per head assessment collected;

(2) Deduct three percent (3%) of the remaining funds for credit to the Constitutional Officers Fund and the State Central Services Fund; and

(3) Credit the remainder of these funds to the State Beef Promotion Account.

(b)(1) Funds credited to the National Beef Promotion Account shall be remitted by the Arkansas Beef Council to the Cattlemen's Beef Promotion and Research Board established in the federal Beef Promotion and Research Act of 1985 in the manner prescribed in that act and in administrative orders and rules issued under that act.

(2) Funds credited to the State Beef Promotion Account shall be used in such manner as the council deems appropriate for Arkansas beef promotion and research and for the operation and maintenance of the



council’s office and the payment of expenses of the council members in accordance with § 25-16-901 et seq.

**History.** Acts 1987, No. 3, § 4; 1997, No. 250, § 8; 2019, No. 910, § 3296.

**Amendments.** The 2019 amendment substituted “Secretary of the Department

of Finance and Administration” for “Director of the Department of Finance and Administration” in (a).

**CHAPTER 36**  
**LIVESTOCK SHOWS AND FAIRS**

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. FUNDING GENERALLY.

**SUBCHAPTER 1 — GENERAL PROVISIONS**

SECTION.

2-36-101. Grading of fairs.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

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**2-36-101. Grading of fairs.**

(a) The Arkansas Livestock and Poultry Commission may formulate necessary and appropriate rules for the grading of fairs on a point system in cooperation with an ad hoc advisory committee formed of representatives of agriculture consisting of representatives from the United States Department of Agriculture, the University of Arkansas Cooperative Extension Service, the Office of Agricultural Science and Technology of the Division of Career and Technical Education, and the Arkansas Fair Managers Association, which shall make recommendations as to criteria for the allotment of grade points to the commission.

(b) The advisory committee shall determine the entry classifications for which grade points would be allowed and delete from approval such classifications as beauty contests, baby shows, antique shows, skills contests, purchased machinery such as cars and farm equipment, or other noncreative categories which in their opinion would be nonpro-

ductive and not in accord with the concept of an agricultural and industrial convention.

**History.** Acts 1973, No. 317, §§ 6, 7; A.S.A. 1947, §§ 78-1615, 78-1616; Acts 1999, No. 1323, § 1; 2011, No. 776, § 2; 2019, No. 910, § 1032.

**Amendments.** The 2019 amendment substituted “Division of Career and Technical Education” for “Department of Career Education” in (a).

SUBCHAPTER 2 — FUNDING GENERALLY

SECTION.

2-36-206. Appropriations for construction and operation.

SECTION.

2-36-208. Bonding of executive officers.

2-36-206. Appropriations for construction and operation.

(a)(1)(A) Funds appropriated by the General Assembly to be used for construction of a district livestock show shall be paid over to the executive officers of the respective district livestock show or fair associations.

(B) None of the funds may be used for paying premiums at or for acquiring sites for the district shows.

(2) No state funds may be paid over to any district association unless and until the executive officer shall have furnished bond to the State of Arkansas in such form and amount and containing such conditions and type of surety as the Arkansas Livestock and Poultry Commission shall by general rule determine.

(b)(1) Funds appropriated by the General Assembly to be used for construction and operation of the Arkansas State Fair and Livestock Show shall be disbursed upon orders of the commission.

(2) The operating revolving fund set aside in a special account to be used for operating expenses in conducting the livestock show shall continue to be set aside for that purpose. All profits from the operation of the show shall be deposited into this account to the extent necessary to maintain the balance at the full amount of the initial deposit.

(3) If in any year the show is operated at a loss, then funds appropriated for this purpose by the General Assembly shall be used to the extent necessary to maintain the balance in the fund account at the full amount of the initial deposit.

(c) The commission shall designate the disbursing officers of all livestock show funds appropriated by the General Assembly.

**History.** Acts 1949, No. 20, §§ 2, 3; A.S.A. 1947, §§ 78-1605, 78-1606; Acts 2019, No. 315, § 21.

**Amendments.** The 2019 amendment substituted “rule” for “regulation” in (a)(2).

2-36-208. Bonding of executive officers.

No state funds may be paid over to any county and district livestock show or fair association unless and until the executive officer shall have furnished bond to the State of Arkansas in such form and amount and

containing such conditions and type of surety as the Arkansas Live-stock and Poultry Commission shall by general rule determine.

**History.** Acts 1973, No. 317, § 2; A.S.A. 1947, § 78-1611; Acts 2019, No. 315, § 22.

**Amendments.** The 2019 amendment substituted "rule" for "regulation".

## CHAPTER 37

### ARKANSAS FEED LAW OF 1997

#### SECTION.

2-37-105. Labeling.

2-37-110. Rules.

#### SECTION.

2-37-113. Penalties.

#### 2-37-105. Labeling.

A commercial feed shall be labeled as follows:

(a) In the case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:

(1) The quantity statement (may be stated in metric units in addition to the required avoirdupois).

(2) The product name and brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in such terms as the State Plant Board by rule determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the AOAC International.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed, provided that the board by rule may permit the use of a collective term for a group of ingredients which perform a similar function, or the board may exempt such commercial feeds, or any group thereof, from this requirement of an ingredient statement if the board finds that such statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the board may require by rule as necessary for their safe and effective use.

(7) Such precautionary statements as the board by rule determines are necessary for the safe and effective use of the commercial feed.

(8) If a drug containing product is used:

(A) The purpose of the medication (claim statement), and

(B) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed as defined by rule.



(b) In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip or other shipping document, bearing the following information:

- (1) Name and address of the manufacturer;
- (2) Name and address of the purchaser;
- (3) Date of delivery;
- (4) The product name and net weight (may be stated in metric units in addition to the required avoirdupois) of each commercial feed and each other ingredient used in the mixture;
- (5) Adequate directions for use and precautionary statements for all customer-formula feeds containing drugs and for such other feeds as the board may require by rule as necessary for their safe and effective use.
- (6) If a drug containing product is used:
  - (A) The purpose of the medication (claim statement); and
  - (B) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed as defined by rule.

**History.** Acts 1997, No. 726, § 5; 2019, No. 315, §§ 23-25. substituted “rule” for “regulation” throughout the section.

**Amendments.** The 2019 amendment

## 2-37-110. Rules.

(a) The State Plant Board is authorized to promulgate such reasonable rules as may be necessary for the efficient enforcement of this chapter. In the interest of uniformity the board shall by rule adopt, unless the board determines that they are inconsistent with the provisions of this chapter or are not appropriate to conditions which exist in this state, the following:

(1) The Official Definitions of Feed Ingredients and Official Feed Terms adopted by the Association of American Feed Control Officials and published in the Association of American Feed Control Officials Official Publication; and

(2) Any rule promulgated under the authority of the Federal Food, Drug, and Cosmetic Act, provided, that the board would have the authority under this chapter to promulgate such rule.

(b)(1)(A) Before the issuance, amendment, or repeal of any rule authorized by this chapter, the board shall publish the proposed rule, amendment, or notice to repeal an existing rule in a manner reasonably calculated to give interested parties, including all current registrants, adequate notice and shall afford all interested persons an opportunity to present their views thereon, orally or in writing, within a reasonable period of time.

(B) After consideration of all views presented by interested persons, the board shall take appropriate action to issue the proposed rule or to amend or repeal an existing rule.

(2) The provisions of this subsection notwithstanding, if the board, under the authority of this subsection, adopts the Official Definitions

of Feed Ingredients or Official Feed Terms as adopted by the Association of American Feed Control Officials, or regulations promulgated under the authority of the Federal Food, Drug, and Cosmetic Act, any amendment or modification adopted by said Association or by the United States Secretary of Health and Human Services in the case of regulations promulgated under the Federal Food, Drug, and Cosmetic Act, shall be adopted automatically under this chapter without regard to the publication of the notice required by this subsection (b), unless the board by order specifically determines that said amendment of modification shall not be adopted.

**History.** Acts 1997, No. 726, § 10; 2019, No. 315, § 26.

**Amendments.** The 2019 amendment substituted “Rules” for “Regulations” in the section heading; substituted “rules”

for “regulations” and “rule” for “regulation” in the introductory language of (a); and substituted “rule” for “regulation” twice in (a)(2) and five times in (b)(1).

### 2-37-113. Penalties.

(a) A person convicted of violating any of the provisions of this chapter or who shall impede, hinder, or otherwise prevent, or attempt to prevent, the State Plant Board or its authorized agent in performance of his or her duty in connection with the provisions of this chapter, shall be adjudged guilty of a violation punishable by a fine of not more than fifty dollars (\$50.00) for the first violation, and not more than two hundred dollars (\$200) for each subsequent violation, and the proceeds from such fines shall be remitted into the State Treasury to the credit of the General Revenue Fund Account of the State Apportionment Fund.

(b) Nothing in this chapter shall be construed as requiring the board or its representative to:

(1) Report for prosecution;

(2) Institute seizure proceedings; or

(3) Issue a withdrawal from distribution order, as a result of minor violations of the chapter, or when the board believes the public interest will best be served by suitable notice of warning in writing.

(c) In all prosecutions for violations of this chapter, the certificate of the analyst, or other officer making the analysis or examination, when sworn to or subscribed by the analyst or officer, shall be prima facie evidence of the facts therein certified.

(d) The board is authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under the chapter notwithstanding the existence of other remedies at law. The injunction shall be issued without bond.

(e) A person adversely affected by an act, order, or ruling of the board made under the provisions of this chapter may within forty-five (45) days thereafter bring action in the Pulaski County Circuit Court for judicial review of the actions. The form of the proceeding may be any which may be provided by statutes of this state to review decisions of

administrative agencies, or in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.

(f) A person who uses to his or her own advantage, or reveals to other than the board or officers of the board or other officers of state agencies, or to the courts when relevant in any judicial proceeding, any information acquired under the authority of this chapter, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection, is guilty of a Class C misdemeanor; provided, that this prohibition shall not be deemed as prohibiting the board or its authorized agent, from exchanging information of a regulatory nature with authorized officials of the United States Government, or of other states, who are similarly prohibited by law from revealing this information.

**History.** Acts 1997, No. 726, § 13; substituted “rule” for “regulation” in the 2005, No. 1994, § 20; 2019, No. 315, § 27. first sentence of (d).

**Amendments.** The 2019 amendment

## CHAPTER 38

### LIVESTOCK RUNNING AT LARGE OR STRAYING

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
5. FERAL HOGS.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

#### SECTION.

2-38-101. Taking up animals.

#### 2-38-101. Taking up animals.

Every citizen, a resident householder in any county in this state, on finding any horse, mare, mule, jack, or jenny or any domesticated bovine, hog, or sheep, of any age running at large, the owner of which is not known, may take the animal into his or her custody.

**History.** Rev. Stat., ch. 58, § 1; C. & M. Dig., § 268; Pope’s Dig., § 282; A.S.A. 1947, § 78-1101; Acts 2019, No. 378, § 7. **Amendments.** The 2019 amendment substituted “bovine, hog” for “cattle, hogs”.

#### SUBCHAPTER 5 — FERAL HOGS

#### SECTION.

- 2-38-501. Definition.
- 2-38-502. Capturing and killing feral hogs.

#### SECTION.

2-38-504. Releasing hogs into the wild.



**2-38-501. Definition.**

As used in this subchapter:

(1)(A) "Feral hog" means an animal or hybrid animal of either the family Suidae, including without limitation a wild hog, Russian or European wild boar, and Old World swine, or the family Tayassuidae, including without limitation peccary, javelina, and New World swine, that is or has been roaming freely upon public land or private land.

(B) "Feral hog" does not include:

(i) A stray domestic hog that has escaped from domestic confinement for less than:

(a) Five (5) calendar days; or

(b) Fifteen (15) calendar days if the owner of the stray domestic hog provides notice of the escape to all adjacent landowners within the first five (5) calendar days of the escape;

(ii) A hog held by a zoo accredited by the Association of Zoos and Aquariums or by the designated caretakers of the University of Arkansas mascot; or

(iii) A hog held while being transported to a livestock market or for slaughter and having a premises identification tag or other official eartag; and

(2) A "feral hog" is deemed to be a public nuisance.

**History.** Acts 1999, No. 457, § 1; 2007, deleted former (1)(B) and redesignated No. 827, § 5; 2013, No. 1104, § 1; 2019, former (1)(C) as (1)(B); and added No. 991, § 1. (1)(B)(iii).

**Amendments.** The 2019 amendment

**2-38-502. Capturing and killing feral hogs.**

(a) A person may capture or kill a feral hog only as follows:

(1) On private land if the person is the landowner or lessee or has the permission of the landowner or lessee;

(2) On public land if:

(A) Allowed by the landowning entity; and

(B) The person possesses a valid Arkansas hunting license and complies with Arkansas hunting rules; or

(3) After providing verification that he or she has a valid permit issued by the Arkansas Livestock and Poultry Commission in accordance with 16 U.S.C. § 742j-1, as it existed on January 1, 2019, upon determining that the permit applicant has a bona fide need to kill feral hogs for protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, and not for a recreational hunting purpose.

(b) A person whose hunting license is revoked shall not take or kill a feral hog during the period of the revocation.

(c)(1) A feral hog captured by any means under subsection (a) of this section shall be immediately killed.

(2) If a feral hog is captured on private property and not moved from the private property, the landowner or lessee is not required to kill the feral hog immediately.

(d)(1) A feral hog may be released into the wild only when the commission authorizes an employee of a state or federal agency to capture or release a feral hog, or both, for tracking or research purposes and with permission of the owner or lessee of the property.

(2) Feral hogs that are captured for the purpose of tracking or research shall be killed upon completion of the tracking or research project.

(e) A certified law enforcement officer or a public employee engaged in the performance of his or her official duties is exempt from the requirements under subdivisions (a)(2) and (3) of this section.

**History.** Acts 1999, No. 457, § 1; 2013, No. 1104, § 2; 2015, No. 723, § 1; 2017, No. 697, § 1; 2019, No. 991, § 2. **Amendments.** The 2019 amendment rewrote (a)(2); added (a)(3); rewrote (c); and added (d) and (e).

## **2-38-504. Releasing hogs into the wild.**

(a) Except as provided in § 2-38-502(d), a person who knowingly releases or attempts to release a live hog upon public or private land upon conviction is guilty of an unclassified misdemeanor and is subject to a fine of not less than one thousand dollars (\$1,000) per hog nor more than five thousand dollars (\$5,000) per hog, imprisonment not exceeding ninety (90) days, or a combination of fine and imprisonment.

(b) Subsection (a) of this section does not prohibit a person from introducing a domestic hog for farm purposes onto private property enclosed with a fence sufficient under § 2-39-101 et seq. and with permission of the owner or lessee of the property.

(c) A person who knowingly purchases, sells, offers for sale, receives, possesses, imports, distributes, or transports a live feral hog upon conviction is guilty of an unclassified misdemeanor and is subject to a fine of one thousand dollars (\$1,000) per hog or imprisonment not exceeding thirty (30) days, or both.

(d) Upon the arrest of a person under this section, the arresting law enforcement officer may seize and take custody of any hog in the possession of the arrested person and may seize any equipment used in furtherance of the violation, including without limitation a motor vehicle, trailer, and trap.

(e)(1) A court having competent jurisdiction:

(A) Shall order the forfeiture and immediate euthanasia of any hog that was the basis of a conviction under this section;

(B) May order the forfeiture and immediate euthanasia of a hog before a conviction if the court determines that the hog poses an imminent risk to public health or safety; and

(C) May order the forfeiture of any seized equipment.

(2) However:

(A) A conveyance used by any person as a common carrier is not subject to forfeiture under this subsection unless it appears that the

owner or other person in charge of the conveyance was a consenting party or privy to the commission or attempt to commit the violation;

(B) Equipment is not subject to forfeiture under this subsection by reason of any act or omission established by the owner of the equipment to have been committed or omitted without his or her knowledge or consent and without the knowledge or consent of any person having possession, care, or control of the equipment with the owner's permission; and

(C) A forfeiture of equipment encumbered by a security interest is subject to the security interest of the secured party if the secured party neither had knowledge of nor consented to the use of the equipment in the commission or attempt to commit the violation.

(f) In addition to the fines, penalties, and forfeitures imposed under this section, a court may require the defendant to make restitution to the state or any of its political subdivisions for transporting, housing, feeding, euthanizing, and disposing of any hog forfeited under this section.

(g) A certified law enforcement officer may write a citation for a violation under this section.

(h)(1) Fines collected under this section shall be deposited into the Feral Hog Eradication Fund that is designated as special revenues for the Arkansas Natural Resources Commission.

(2) The funds designated under subdivision (h)(1) of this section are to be used for eradication efforts to eliminate feral hogs.

(i) This section does not apply to the purchase, sale, receipt, possession, import, or transportation of a live feral hog that serves as a mascot for an institution of higher education.

**History.** Acts 1999, No. 457, § 3; 2005, No. 1994, § 22; 2007, No. 827, § 6; 2011, No. 567, § 1; 2013, No. 1104, § 3; 2015, No. 723, §§ 2, 3; 2019, No. 991, §§ 3, 4.

**Amendments.** The 2019 amendment, in (a), substituted "Except as provided in § 2-38-502(d), a person" for "A person", inserted "or private", and substituted "imprisonment not exceeding ninety (90)

days, or a combination of fine and imprisonment" for "and revocation of his or her hunting and fishing rights in the state for up to five (5) years"; rewrote (b); substituted "officer may seize" for "officer shall seize" in (d); substituted "A certified law enforcement officer" for "Any certified state law enforcement officer" in (g); and rewrote (h).

## CHAPTER 40

### CONTROL OF CONTAGIOUS DISEASES

#### SUBCHAPTER.

2. ARKANSAS LIVESTOCK AND POULTRY COMMISSION PROGRAMS.
4. DISPOSAL OF FOWL CARCASSES.
12. PSEUDORABIES CONTROL AND ERADICATION PROGRAM.
13. DISPOSAL OF LARGE ANIMAL CARCASSES.



## SUBCHAPTER 2 — ARKANSAS LIVESTOCK AND POULTRY COMMISSION PROGRAMS

### SECTION.

2-40-205. Blood test training program.

2-40-206. Funding of bovine disease program.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

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### 2-40-205. Blood test training program.

(a) No person shall perform any program or certifying blood tests on livestock or poultry unless the person has first completed a blood test training program designed and conducted by the State Veterinarian and has obtained a tester’s permit from the State Veterinarian.

(b) These technicians shall be used at the market, where economically feasible, except when in violation of state law or rule or federal law, rule, or regulation.

**History.** Acts 1985, No. 150, § 3; 1985, No. 151, § 3; A.S.A. 1947, § 78-477; Acts 2019, No. 315, § 28.

substituted “state law or rule or federal law, rule, or regulation” for “state or federal law or regulation” in (b).

**Amendments.** The 2019 amendment

### 2-40-206. Funding of bovine disease program.

(a)(1)(A) In order to fund or partially fund the bovine disease control and eradication program, there is levied a fee of one dollar (\$1.00) per head on all cattle sold in this state to be used for the bovine disease control and eradication program.

(B)(i) However, if the Director of the Arkansas Livestock and Poultry Commission determines there is an emergency, the Arkansas Livestock and Poultry Commission may promulgate a rule to temporarily raise the fee set in subdivision (a)(1)(A) of this section after receiving approval of the rule from the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(ii) A rule adopted to raise the fee under this subdivision (a)(1)(B) shall be effective only during the period of time the emergency persists or for one (1) year, whichever is shorter.

(iii) If an emergency persists after one (1) year, the commission may promulgate a rule to extend the increased fee for additional one-year periods by following the procedures stated in subdivision (a)(1)(B)(i) of this section each year the rule increasing the fee is to be effective.

(iv) The commission shall not adopt an emergency rule to raise the fee under this subdivision (a)(1)(B).

(2) The fee shall not be assessed on the resale of any cattle within ten (10) calendar days after the prior sale if the fee was paid on the prior sale.

(b)(1) The fee shall be collected by the purchaser and remitted monthly to the Secretary of the Department of Finance and Administration, except that if the sale occurs through a livestock auction market or any other agent of the seller, the livestock auction market or other agent shall collect and remit the fee. The Secretary of the Department of Finance and Administration may promulgate such rules as he or she deems necessary to implement the collection of the fee.

(2)(A) After deducting three percent (3%) for credit to the Constitutional Officers Fund and the State Central Services Fund the remainder of funds so remitted to the Secretary of the Department of Finance and Administration shall be deposited into the State Treasury as special revenues and credited to the Livestock and Poultry Commission Disease and Pest Control Fund.

(B) Before the close of each fiscal year, the Chief Fiscal Officer of the State shall determine the amount of funds which will remain at the end of the fiscal year in the Livestock and Poultry Commission Disease and Pest Control Fund from fees collected under the provisions of this section. He or she shall allow such funds to be carried forward and made available for the same purposes in the next succeeding fiscal year.

(C) The Secretary of the Department of Finance and Administration shall release all information related to the fee levied per head on all cattle sold in the state to be used for the bovine disease control and eradication fund when requested by the Secretary of the Department of Agriculture.

**History.** Acts 1985, No. 150, § 1; 1985, No. 151, § 1; A.S.A. 1947, § 78-475; Acts 1989 (1st Ex. Sess.), No. 192, § 26; 2015, No. 342, § 1; 2015, No. 1077, § 1; 2017, No. 1011, § 50; 2019, No. 910, § 3297.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in the first sentence of (b)(1) and for "director" throughout (b); and substituted "Department of Agriculture" for "Arkansas Agriculture Department" in (b)(2)(C).

## SUBCHAPTER 4 — DISPOSAL OF FOWL CARCASSES

### SECTION.

2-40-403. Requirements.

2-40-404. Specifications.

2-40-406. Division of Environmental

Quality — Jurisdiction unimpaired.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019”.

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### 2-40-403. Requirements.

The Arkansas Livestock and Poultry Commission shall, by rule, specify acceptable methods for the disposal of fowl carcasses, including, but not limited to:

- (1) Composting of carcasses;
- (2) Cremation or incineration;
- (3) Extrusion;
- (4) On-farm freezing;
- (5) Rendering; and
- (6) Cooking for swine feed.

**History.** Acts 1985, No. 168, § 2; A.S.A. 1947, § 78-415.2; Acts 1989 (3rd Ex. Sess.), No. 20, § 1; 1993, No. 241, § 2; 1993, No. 250, § 2; 2019, No. 315, § 29.

**Amendments.** The 2019 amendment substituted “rule” for “regulation” in the introductory language of the section.

### 2-40-404. Specifications.

The Arkansas Livestock and Poultry Commission shall, by rule, specify acceptable methods of the disposal of fowl carcasses in the event of a major die-off.

**History.** Acts 1985, No. 168, § 3; A.S.A. 1947, § 78-415.3; Acts 1989 (3rd Ex. Sess.), No. 20, § 2; 1993, No. 241, § 3; 1993, No. 250, § 3; 2019, No. 315, § 30.

**Amendments.** The 2019 amendment substituted “rule” for “regulation”.



**2-40-406. Division of Environmental Quality — Jurisdiction unimpaired.**

This subchapter shall not be interpreted as denying or preempting the regulatory or enforcement jurisdiction of the Division of Environmental Quality.

**History.** Acts 1989 (3rd Ex. Sess.), No. 20, § 3; 1999, No. 1164, § 1; 2019, No. 910, § 2415.

**Amendments.** The 2019 amendment

substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in the section heading and the section.

**SUBCHAPTER 12 — PSEUDORABIES CONTROL AND ERADICATION PROGRAM****SECTION.****2-40-1201. Fees — Disposition of funds.**

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

**2-40-1201. Fees — Disposition of funds.**

(a) In order to fund or partially fund the pseudorabies control and eradication program there is hereby levied a fee of one dollar (\$1.00) per head on all spent sows and boars sold at livestock markets.

(b)(1) Each livestock market operator shall collect fees and remit monthly to the Secretary of the Department of Finance and Administration.

(2) The secretary may promulgate such rules as the secretary deems necessary to implement the collection of the fee.

(c) After deducting three percent (3%) for credit to the Constitutional Officers Fund and the State Central Services Fund, the remainder of funds so remitted to the secretary shall be deposited into the State Treasury as special revenues and credited to the Livestock and Poultry Commission Swine Testing Fund.

(d) Before the close of each fiscal year, the Chief Fiscal Officer of the State shall determine the amount of funds which will remain at the end of the fiscal year in the fund from fees collected under the provisions of this section. The Chief Fiscal Officer of the State shall allow such funds



to be carried forward and made available for the same purpose in the next-succeeding fiscal year.

**History.** Acts 1991, No. 1105, § 24; 2019, No. 910, § 3298.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and

Administration" in (b)(1); substituted "secretary may promulgate such rules as the secretary deems" for "director may promulgate such rules as it deems" in (b)(2); and substituted "secretary" for "director" in (c).

### SUBCHAPTER 13 — DISPOSAL OF LARGE ANIMAL CARCASSES

#### SECTION.

2-40-1302. Disposal.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

#### 2-40-1302. Disposal.

(a)(1) All large animal carcasses and all parts of large animal carcasses shall be disposed of in a manner prescribed by rules of the Arkansas Livestock and Poultry Commission.

(2) However, no large animal carcass shall be buried or otherwise disposed of in any landfill operated under a permit issued by the Division of Environmental Quality.

(b) If a person or entity conducts a farming activity at more than one (1) location, it shall not be necessary for such person or entity to have a disposal ditch or facility at each location unless specified by the State Veterinarian.

**History.** Acts 1993, No. 522, §§ 3, 4; 1999, No. 1164, § 2; 2019, No. 910, § 2416.

**Amendments.** The 2019 amendment

substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (a)(2).





